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# In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 67

STATE OF LOUISIANA, ET AL., APPELLANTS

*v.*

UNITED STATES OF AMERICA

*ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA*

## BRIEF FOR THE UNITED STATES

### OPINION BELOW

The opinion of the district court (R. 94–145) is reported at 225 F. Supp. 353. Subsequent findings of fact and conclusions of law (R. 84–89) and the decree (R. 81–84) are not reported.

### JURISDICTION

The judgment of the three-judge district court (R. 81–84) was entered on January 28, 1964. A timely notice of appeal (R. 92–93) was filed in the court below on March 5, 1964.[1] The jurisdictional state-

[1] A premature notice of appeal filed December 27, 1963 (R. 79)—before entry of the decree—was dismissed (R. 90, 91) and an identical new notice substituted. While, pursuant to stipu-

ment was filed here on May 5, 1964, and this Court noted probable jurisdiction on June 22, 1964. 377 U.S. 987. The jurisdiction of the Court rests on 28 U.S.C. 1253. *Sterling* v. *Constantin*, 287 U.S. 378.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### A. PROVISIONS OF GENERAL RELEVANCE

Article VI, clause 2, of the Constitution of the United States, Section 1 of the Fifteenth Amendment and the relevant portions of Section 1971 of Title 42 of the United States Code are reproduced in Appendix A, *infra*, pp. 81–86.

### B. PROVISIONS RELEVANT TO THE "UNDERSTANDING AND INTERPRETATION" TEST (QUESTION 2)

1. The pertinent portion of Section 1(d) of Article VIII of the Louisiana Constitution, as amended in 1960, is as follows:

> He [the voter] * * * shall be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the Registrar * * *[2]

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lation (*e.g.*, R. 32, 36, 38), only written evidence was submitted (depositions, affidavits, transcribed testimony from other proceedings and other written exhibits), the case was tried on the merits (R. 84) and the decree (including a declaratory judgment and a permanent injunction (R. 81)) is properly characterized a "final order" (R. 92). Accordingly, the appeal filed within 60 days of the judgment was timely. 28 U.S.C. 2101(b).

[2] Presumably by inadvertence, the Jurisdictional Statement (p. 3) and the Brief (pp. 2–3) filed by the State of Louisiana cites and quotes the provision of former Section 1(c), rather than the appropriate language of Section 1(d)—the only con-

2. The pertinent portion of Section 35 of Title 18 of the Louisiana Revised Statutes is as follows:

> Applicants for registration shall also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof.[3]

3. The pertinent portion of Section 36 of Title 18 of the Louisiana Revised Statutes is as follows:

> If the registrant cannot read or write, he may register if he * * * understands and can give a reasonable interpretation of any section of either constitution [of the United States or Louisiana] when read to him by the registrar or his deputy.[4]

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stitutional interpretation test in effect when this suit was filed (December 28, 1961, see R. 1, 6) or since.

As originally adopted in 1921, Article VIII contained two separate constitutional interpretation tests. Section 1(c) provided that persons able to read and write "shall also be able to read any clause in this Constitution or the Constitution of the United States, and give a reasonable interpretation thereof." Section 1(d) provided that illiterates might register if "able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar * * *." In 1960, the interpretation test in Section 1(c) was deleted entirely, and the opening phrase of Section 1(d), which had restricted its application to illiterates, was dropped. See Act 613 of 1960, adopted November 8, 1960. The result is that the test originally designed for illiterates is now the test applicable to every applicant. For clarification, we have appended a comparative text showing the changes effected in 1960. See Appendix B, *infra*, pp. 87–90.

[3] La. R.S. 18:35 repeats almost verbatim the interpretation test as it originally appeared in Article VIII, Section 1(c) of the Constitution. Although that language has been deleted from the Constitution, it remains in the statute.

[4] La. R.S. 18:36 substantially repeats the test for illiterates which appeared in Article VIII, Section 1(d) of the Constitution before 1960, and which is now applicable to all registrants. While Section 36 has not been changed, presumably

### C. PROVISIONS RELEVANT TO THE "CITIZENSHIP" TEST (QUESTION 3)

1. The pertinent portion of Section 1(c) of Article VIII of the Louisiana Constitution is as follows:

> He [the voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.

2. The pertinent portion of Section 1(d) of Article VIII of the Louisiana Constitution is as follows:

> He [the voter] * * * must understand the duties and obligations of citizenship under a republican form of government.[5]

3. The pertinent portion of Section 18 of Article VIII of the Louisiana Constitution, as amended in 1962, is as follows:

> The Board [of Registration] shall from time to time adopt such rules and regulations as it finds necessary for proper functioning of registration procedure in the State and shall prepare, adopt and issue a uniform, objective written test or examination for citizenship to determine that applicants for registration understand the duties and obligations of citizenship under a republican form of government. The Board of

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it should be read as though the introductory clause had been deleted, to conform with the Constitution (Article VIII, § 1(c)) which now bars illiterates from the franchise (though illiterates properly registered on or before November 8, 1960, may continue to vote. See La. Const., Art. VIII, § 1(f)).

[5] This and the previous provision are both part of the original 1921 text; the quoted portion of subsection (c) was then applicable to literate applicants, while the substantially identical portion of subsection (d) applied only to illiterates. Both provisions survived the 1960 amendment (see note 2, *supra*) and both now apply to all prospective voters. See Appendix B, *infra*, pp. 87–90.

> Registration shall direct and instruct the registrars to administer this test to all applicants for registration and the results shall be maintained in the registrar's office as public records so that all persons shall have access to them and the right to appeal therefrom under the applicable laws relating thereto as provided elsewhere in this Constitution.

4. The pertinent portion of Section 31(2) of Title 18 of the Louisiana Revised Statutes is as follows:

> He [the applicant for registration as a voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.

5. The pertinent portion of Section 36 of Title 18 of the Louisiana Revised Statutes is as follows:

> He [the applicant for registration as a voter] * * * shall understand the duties and obligations of citizenship under a republican form of government.*

6. The pertinent portion of Section 191A of Title 18 of the Louisiana Revised Statutes, as amended in 1962, is as follows:

> [T]he board of registration * * * shall prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government, which said objective test shall be provided for, prepared and furnished to the registrars by the board of registration, and the character and forms of

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*This redundant provision was originally, and is still in terms, applicable to illiterates alone; but, in light of the change in the constitutional provision to which it is tied, it must presumably be read as generally applicable.

record, affidavits and other documents necessary or proper, in its opinion, to carry into effect the provisions of this Chapter, and shall file them in the office of the secretary of state.'

QUESTIONS PRESENTED

1. Whether the United States may initiate injunctive and declaratory proceedings challenging, as contravening the Fifteenth Amendment and 42 U.S.C. 1971(a), State constitutional and statutory provisions establishing voting qualifications and may institute such an action against the State and the members and director of the State Board of Registration when there are local voting registrars available as defendants.[8]

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[7] This provision, enacted in June, 1962 (see Act 62 of 1962), became effective and was implemented by the State Board of Registration in August (see R. 224–251), before the adoption, in November, of the constitutional amendment quoted as Item 3 above. Presumably, the new "citizenship" test was thought authorized by the existing constitutional provisions quoted as Items 1 and 2 above. See R. 228.

[8] Since none of the issues embodied in this first question is listed as a "question presented" or is "fairly comprised" within the only question mentioned (question 2, *infra*) in the notice of appeal (R. 92–93; see, also, R. 79; J.S. 4), they would normally be foreclosed here. See Rule 10(2) of the Revised Rules of this Court. Indeed, it is doubtful whether all of these matters were raised in the district court (see Motion to Dismiss, R. 21–22). And, even now, it does not clearly appear that appellants challenge the authority of the Attorney General to institute the present suit on behalf of the United States against other defendants (but see App. Br. 11–12). Nevertheless, because some of the issues mentioned are expressly considered in the opinion below (see R. 98–99), because those not expressly argued here are prominently involved in the companion *Mississippi* case (No. 73, this Term), on which the present appellants so much rely, and because the questions are in some sense

2. Whether the provisions of the Louisiana Constitution (Art. VIII, § 1(d)) and implementing legislation (La. R.S. 18:35, 36) requiring applicants for registration as voters to be able to "understand and give a reasonable interpretation" of any section of the State or federal Constitution are unconsitutional because they violate the Fifteenth Amendment and 42 U.S.C. 1971.

3. Whether, in the circumstances, the district court properly enjoined the use of a new "citizenship" test in the 21 parishes where the constitutional interpretation test was shown to have been used, until such time as there is a re-registration of all voters in those parishes.[9]

## STATEMENT

### A. THE PLEADINGS AND PROCEDURE

These proceedings were begun on December 28, 1961, in the United States District Court for the Eastern District of Louisiana. On that day, the Attorney General, acting pursuant to 42 U.S.C. 1971(c), filed a complaint in the name of the United States against

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jurisdictional—we advert to them. In order to avoid unnecessary repetition, however, our discussion here is very summary, with appropriate references to the government's brief in *United States* v. *State of Mississippi*, No. 73, where the procedural issues are treated more fully.

[9] Again, appellants have failed to specify this question in their notice of appeal (R. 92–93; see, also, R. 79–80; J.S. 4). Yet, it is prominently argued in their brief here (pp. 24–33). We discuss it fully because it may be viewed as "a subsidiary question fairly comprised" within the question set forth in the notice—the constitutional validity of the "understanding and interpretation" test. See Rule 10(2) of the Rules of this Court.

the State of Louisiana, the members of the Louisiana Board of Registration, and the Director and *ex officio* secretary of the Board (R. 1).[10] The gravamen of the complaint was that the Louisiana constitutional and statutory provisions which condition registration for voting upon the ability of the applicant to understand and give a reasonable interpretation of any section of the Constitution of the United States or the Constitution of Louisiana (La. Const., Article VIII, Section 1(d), as amended, and La. R.S. 18:35; 36) conflict with 42 U.S.C. 1971(a) and contravene the Fourteenth and Fifteenth Amendments to the United States Constitution (R. 7). A judgment was sought declaring the challenged provisions unconstitutional and enjoining the defendants from enforcing them and from engaging in any other course of action which would deprive citizens of the right to register and vote on account of race or color, or which would delay or discourage their exercise of that right (R. 8).

On January 9, 1962, upon the application of the United States, a statutory court of three judges was convened in accordance with 28 U.S.C. 2281.[11] On February 27, the defendants moved to dismiss the

[10] After the decree was entered, two members of the State Board of Registration (the Governor and the Speaker of the Louisiana House of Representatives) were replaced. The new Governor (John J. McKeithen) and the new speaker (Vail M. Deloney) should be substituted for Jimmie H. Davis and J. Thomas Jewell. See Rule 25(d)(1), F.R. Civ. P.

[11] The order convening the three-judge court (which was not designated for printing) is found among an unpaginated group of papers between pages 14 and 15 of the original record. The court consisted of Circuit Judge Wisdom and District Judges Christenberry and West.

complaint upon the grounds that there was "no justiciable controversy," that the United States had failed to join indispensable parties and that venue was improper (R. 21–22). On March 15, the United States filed an amended complaint which added the allegation that Louisiana registrars of voters "have used, are using, and will continue to use the interpretation test to deprive otherwise qualified Negro citizens of the right to register to vote without distinction of race or color," and that "[t]he existence of the interpretation test as a voter qualification in Louisiana, the threats of its enforcement and its enforcement have deterred, are deterring and will continue to deter otherwise qualified Negroes in Louisiana from applying for registration to vote" (R. 28). The district court denied the motion to dismiss on June 7 (R. 31). Thereafter, on July 3, the defendants filed a joint answer, generally denying each of the allegations in the complaint, but conceding that the constitutional and statutory provisions prescribing the oral interpretation test impose no definite and objective standards upon registrars of voters in the administration of the test.[12] By agreement, all evidence was submitted in written form. Numerous depositions, affidavits, transcripts of testimony from other proceedings, official voting records and other exhibits were introduced by the United States. Appellants submitted no evidence and, though given time to do so (see R. 73–75), filed no trial brief.

[12] The answer, which was not designated for printing, appears among an unpaginated group of papers between pages 33 and 34 of the original record.

At one point during the proceedings (see R. 78), appellants suggested that the case was moot because the challenged "understanding and interpretation" test had been discontinued and a new multiple-choice "citizenship" test substituted, pursuant to a recent amendment to the State Constitution (La. Const., Art. VIII, § 18, as amended by Act 539 of 1962, adopted November 6, 1962, (*supra,* p. 4), a new statute (La. R.S. 18:191A, as amended by Act 62 of 1962, *supra,* p. 5) and a Resolution of the State Board of Registration (R. 227–231, 231–234), accompanied by test forms (R. 235–251) and Instructions to Registrars (R. 225–226). In that way, the new "citizenship" test was introduced as an issue in the case (see R. 69, 71, 74, 78). In order to rebut the allegation that the constitutional interpretation test had been wholly abandoned in determining voter qualifications, the government sought and obtained permission to re-open the case to submit further evidence (R. 75–79). Subsequently, a deposition was introduced showing that the old test had been continued in use in Webster Parish (R. 390–391), and such a finding was entered in a later proceeding. See *United States* v. *Clement,* 231 F. Supp. 913 (W.D. La.).

A majority of the court filed its opinion on November 27, 1963 (R. 97). District Judge West filed his dissenting opinion on December 31 (R. 140). Formal findings of fact, conclusions of law, and a decree granting the relief requested were entered on January 28, 1964 (R. 81–89).

## B. THE EVIDENCE

### 1. THE ANTECEDENTS OF THE INTERPRETATION TEST

From the *Code Noir* of 1724 until 1864, the organic law of Louisiana extended the franchise only to free white males,[13] notwithstanding the fact that there were thousands of free Negro men in the State.[14] For three decades thereafter, however, the policy changed. While the constitution adopted in 1864 itself conferred the right to vote on white men alone, it expressly empowered the legislature "to pass laws extending suffrage to such other persons, citizens of the United States, as by military service, by taxation to support the government, or by intellectual fitness, may be deemed entitled thereto."[15] In 1868 (three years before the Fifteenth Amendment was ratified), Louisiana adopted a new constitution which entirely eliminated race as a qualification for voting.[16] And the Constitution of 1879 explicitly prohibited the legislature from abridging the franchise "on account of race, color or previous condition."[17] Thus, in 1888, Negroes, accounting for about half the population of Louisiana, also constituted approximately fifty per cent of the electorate. In that year there

[13] For the period after Louisiana achieved Statehood in 1812, see: La. Const. 1812, Art. II, § 8; La. Const. 1845, Art. 10; La. Const. 1852, Art. 10.

[14] In 1810, New Orleans had 8,001 white persons, 5,727 free persons of color and 10,824 slaves. *Aggregate Amount of Persons Within the United States in 1810* (Wash. D.C. 1811) p. 82.

[15] La. Const. 1864, Art. 14, 15.

[16] La. Const. 1868, Art. 98.

[17] La. Const. 1879, Art. 188.

were 127,923 Negroes and 126,884 white persons on the registration rolls.[18] As of January 1, 1897, the number of Negro voters was 130,344, some 44% of the electorate.[19]

In 1898, Louisiana held a constitutional convention. According to the official journal, the President of the Convention (Mr. Kruttschnitt) assumed his chair with the remark that the convention "has been called together by the people of the State to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter of a century degraded our politics."[20] A contemporaneous account in the Harvard Law Review relates that Mr. Kruttschnitt later told the convention delegates:

> We all know, we, the white people of the State of Louisiana, that the problem which we desire to solve is to undo the greatest crime of the nineteenth century, the placing of the ballot in the hands of the negro race by the Fifteenth Amendment to the Constitution of the United States. * * *[21]

Also noted is the argument of Mr. Kruttschnitt that it was necessary to prevent ignorant Negroes from voting, yet to grant the franchise to ignorant white men who had fought for the South. 13 Harv. L. Rev. at 288.

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[18] Pl. Ex. 1 (part of the original record, not designated for printing). For a partial summary of population and voter registration statistics, see the tabular recapitulation in Appendix C., *infra*, p. 91.

[19] *Ibid.*

[20] Official Journal of the Proceedings of the Constitutional Convention of 1898, p. 9.

[21] Eaton, *The Suffrage Clause in the New Constitution of Louisiana*, 13 Harv. L. Rev. 279, 288.

Many of the delegates to the 1898 convention sought to accomplish this objective by a so-called "understanding clause"—adopted by Mississippi in 1890 [22] and by South Carolina in 1895.[23] This provision would have permitted an applicant for registration as a voter who was unable to read to be registered if, in the opinion of the registrar or his deputy, he could understand the Constitution of the State. 13 Harv. L. Rev. at 291. The delegates who favored such a clause included Lieutenant Governor Snyder, who, at a conference of 35 or 40 delegates, stated that "[a]n 'understanding clause' like that in the Constitution of Mississippi is elastic and can be used effectively to prevent Negroes from registering." *Id.* at 281. Mr. Strongfellow thought that with an understanding clause "they could make one grand sweep, include all the white people, and then put the bars up as they wanted to, and thus settle the suffrage question for all time to come." *Id.* at 291. Other delegates opposed the proposal. A delegate from Ouachita Parish was quoted by the New Orleans Times-Democrat as stating: "To adopt the understanding clause would be 'to send word' to the registrars to do what you will not do yourself" (R. 114). A noted historian observes that, after considerable debate, the delegates were "persuaded that the understanding clause was based on fraud," and rejected it. Woodward, *Origins of the New South,* p. 332. Instead, the convention

[22] Miss. Const., 1890, Art. 244; see Brief for the United States in *United States* v. *State of Mississippi*, No. 73, this Term, p. 13.

[23] S.C. Const. 1895, Art. II, Sec. 4(c).

adopted alternative requirements of literacy or property to bar the poor and illiterate Negro, and a "grandfather clause" to admit to the franchise the whites who were unable to satisfy the other qualifications.[24]

The intent of these provisions is fully disclosed. Writing in 1904, a Louisiana historian explained the purpose of the suffrage provisions adopted in 1898:

> The purpose of this section, known as the 'Grandfather Clause,' was to allow many honorable and intelligent but illiterate white men to retain the right of suffrage, and the purpose of the educational or property qualification was to disfranchise the ignorant Negroes who had been a menace to the civilization of the State since the adoption of the Fifteenth Amendment to the Constitution of the United States.[25]

At the close of the convention, President Kruttschnitt complained that, because of the Fifteenth Amendment, the delegates had "not been free."[26] He said:

> * * * we have not drafted the exact Constitution that we should have like to have drafted; otherwise, we should have inscribed in it, if I know the popular sentiment of this State, universal white manhood suffrage, and the exclusion from the suffrage of every man with a

[24] La. Const. 1898, Art. 197. At the time, according to the United States census, approximately 61.3 percent of adult Louisiana Negroes were illiterate, while illiterates represented some 18 percent of the white adult population. See U.S. Census Office, *Twelfth Census: 1900*, Vol. I, Table XCV, p. cciv, Table XCVI, p. ccvi, Table 67, p. 909, Table 68, p. 910, Table 69, p. 912, Table 92, p. 983.

[25] 4 Fortier, *History of Louisiana* 235.

[26] R. 204; Official Journal of the Proceedings of the Constitutional Convention of 1898, p. 380.

> trace of African blood in his veins. * * * What care I whether the test we have * * * be more or less ridiculous or not? Doesn't it meet the case? Doesn't it let the white man vote, and doesn't it stop the negro from voting, and isn't that what we came here for?[27]

In his message to the legislature, Governor Foster characterized the suffrage problem of the convention as, "[i]n the face of the fifteenth amendment, the elimination of the negro as a controlling factor in our politics, without at the same time excluding from the electorate a large number of our worthy white citizens * * *."[28]

He declared:

> The States of Mississippi and South Carolina had previously attempted to solve this problem, not by any certain and fixed provisions of law, but by leaving the admission of the applicant to the exercise of the electoral franchise largely to the arbitrary discretion of the officers administering the law. The Convention of our State solved the problem in a much more upright and manly fashion. The method adopted by it involves the exercise of no such arbitrary discretion on the part of the registration and election officers. * * *[29]

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[27] Other equally explicit statements of convention delegates are related in Eaton, *The Suffrage Clause in the New Constitution of Louisiana*, 13 Harv. L. Rev. 279, 281, 289. See also, R. 113; Monnet, *The Latest Phase of Negro Disfranchisement*, 26 Harv. L. Rev. 42, 56–57; Kernan, *The Constitutional Convention of 1898 and its Work*, Proceedings of the Louisiana Bar Association for 1899, pp. 54, 59–60; Marr, *A Historical Review of the Constitutions of Louisiana*, 1912–13.

[28] Louisiana Senate Journal, 1898, p. 33.

[29] *Ibid.*

Promptly following the adoption of the 1898 constitution, the Louisiana legislature directed a complete new registration of all voters.[30] Originally, registration under the "grandfather clause" was limited to those who qualified before September 1, 1898.[31] But the benefit of that provision was later extended to new "grandsons."[32] As a result of the re-registration, the number of Negroes on the registration rolls fell dramatically. Whereas in 1897 there had been 130,344 Negro voters in the State, there were only 5,320 in 1900. By 1910, only 730, or less than 0.5 percent of the adult male Negroes, were registered.[33] The new constitution adopted in 1913 carried forward without material change the 1898 suffrage provisions, including the "grandfather clause."[34]

2. THE 1921 CONSTITUTIONAL CONVENTION

In 1915, this Court held unconstitutional an Oklahoma "grandfather clause." *Guinn* v. *United States*, 238 U.S. 347. One of the purposes of the Louisiana constitutional convention called in 1921 was to revise the voter qualification laws in light of this development.

According to contemporaneous accounts in New Orleans newspapers, the Convention of 1921 considered "several substitutes" for the grandfather clause. One was the Connecticut clause requiring voters to possess "good moral character." A second was a

[30] La. Act 199 of 1898, §§ 2, 34.

[31] La. Const. 1898, Art. 197, § 5.

[32] See La. Act 24 of 1912, re-opening the "grandfather clause" between November, 1912, and September, 1913.

[33] Pl. Ex. 1. See Appendix C, *infra*, p. 91.

[34] La. Const. 1913, Art. 197.

proposal of ex-Governor Pleasant, called the "Christopher Columbus" plan, under which only those whose ancestors had inhabited the continent of Europe prior to October 12, 1492, could register to vote without meeting onerous educational requirements. A third was the proposal rejected in 1898—Mississippi's "understanding clause" (R. 209, 219).[35] The Times-Picayune declared that the purpose of the "Christopher Columbus" plan was "to shut out the negro" (R. 209), and viewed the "understanding clause" as touching the same "phase" of the suffrage question as the Christopher Columbus plan (R. 213). When the "understanding clause" was first proposed to the convention on March 21, 1921, the Times-Picayune characterized it as "[a]n ordinance designed to plug the hole shot through the suffrage provision of the present constitution when the Supreme Court of the United States declares the famous 'grandfather' clause invalid."[36] The New Orleans States, another

[35] The Convention of 1921, unlike the Convention of 1898, did not keep a Journal. A proposal was made that a shorthand record be made of the convention proceedings. But, according to the March 3, 1921, Times-Picayune, during a Rules Committee debate on this proposal Ex-Governor Pleasant protested "with a broad smile" that "[t]here might be one subject coming up for discussion which we would not care to have preserved in shorthand" (R. 211). The Committee, the article continued, understood that Mr. Pleasant referred to his "Columbus suffrage cause," whereupon "everybody smiled", and the shorthand proposal was defeated (*ibid.*). The deliberations of the Committee on Suffrage and Elections were conducted largely in executive session with "much secrecy", and its members observed a strict injunction against publicly discussing committee business (R. 221).

[36] R. 215. The same newspaper reported that Judge Pugh, in introducing it, had labeled it "judicially bombproof" (R. 215).

newspaper, reported that a large delegation of Negro citizens of Louisiana appeared before the Committee on Suffrage and Elections in opposition to the understanding clause, and "pleaded for the ballot" and against the "total disfranchisement of 700,000 * * * human beings" (*viz.*, the Negro population of Louisiana in 1920) (R. 217). Nevertheless, the understanding clause was reported out of committee. In summarizing the committee's action, a third journal, the States Times, declared that "[t]he grandfather clause is eliminated and there is substituted an understanding and good character clause * * *." (R. 221).[37]

The new constitutional interpretation test was not a test of literacy. On the contrary, under the Constitution of 1921—until it was amended in 1960[38]—the new test was expressly applicable to illiterates, who then accounted for 25 percent of the adult population.[39] Indeed, it was probably designed especially

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[37] As originally adopted, the new Constitution required "good character" of literate applicants (La. Const., Art VIII, § 1(c)) and "good character and reputation" of illiterates (*id.*, § 1(d)). The 1960 amendment to the State Constitution greatly expanded the first of these provisions (now applicable to every applicant) by providing, *inter alia*, that none shall be deemed of good character who has lived in "common law marriage" or has mothered or fathered an illegitimate child. See the text of the new § 1(c) printed in Appendix B, *infra*, pp. 87–90.

[38] See note 2, *supra*. The full textual changes (most of them irrelevant to the present case) are reflected in Appendix B. *infra*, pp. 87–90.

[39] Among whites the illiteracy rate was about 12%; among Negroes, 44%. See U.S. Bureau of Census, *Abstract of the Fourteenth Census of the United States: 1920*, Table 132, p. 433.

for them. As originally enacted, Section 1(d) of Article VIII provided that an applicant for voter registration who satisfied other requirements common to all voters,[40] but was "not able to read or write," "shall be entitled to register if he * * * shall be able to understand and give a reasonable interpretation of any section of either [the] Constitution [of the United States or the Constitution of Louisiana] when read to him by the registrar." While literate applicants were also nominally required to "be able to read any clause in this Constitution or the Constitution of the United States and give a reasonable interpretation thereof," this final test, in their case, seems plainly secondary to the demonstration of literacy through completion of the written application form "without assistance or suggestion from any person or any memorandum whatever."[41] La. Const. 1921, Art. VIII,

[40] Beyond the requirements of citizenship, age, residence and absence of disqualifying conviction or interdiction (see Art. VIII, §§ 1(a), (6), both literate and illiterate applicants were required to be "of good moral character" and able to "understand the duties and obligations of citizenship under a republican form of government." It is difficult to attribute concrete meaning to the additional provisions applicable only to illiterates that they "be attached to the principles of the Constitution of the United States and of the State of Louisiana" and "be well disposed to the good order and happiness of the State of Louisiana and of the United States." La. Const. 1921, Art. VIII, § 1 (c) and (d), reproduced in Appendix B, *infra*, pp. 87–90.

[41] This form-completion requirement, now even stricter and applicable to all applicants, is challenged by the United States in a separate proceeding. *United States* v. *Board of Registration of Louisiana*, C.A. 2866 (E.D. La.).

§ 1(c).[42] It is instructive that, in 1960 when the Constitution was amended to end the registration of illiterates [43] (now some 6.3 percent of the population above 14),[44] the clause last quoted was deleted and the first (formerly applicable only to illiterates) was retained and made applicable to everyone.[45]

### 3. THE EFFECT OF THE WHITE PRIMARY

From 1921 to 1948, the interpretation test apparently lay dormant. It was unnecessary as a screen against negro voters because the Democratic State Central Committee, following a policy officially endorsed by the State (see R. 189–194),[46] restricted all candidates and voters in Democratic Party primary

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[42] See Appendix B, *infra*, pp. 87–90. It is apparent that if the constitutional interpretation test applied with equal vigor to both classes, illiterate applicants would be favored, since they were excused from the literacy test involved in completing the application form unaided. Indeed, this seeming anomaly was noted in a study of the voting laws completed for the legislature in 1960, and doubtless affected the legislative proposal for revision of the Constitution which was adopted by the electorate that November. See Louisiana Legislative Council, *An Analysis of the Election Laws of Louisiana* (Baton Rouge, 1960), vol. I, p. 4.

[43] See note 4, *supra*. As noted there, illiterates legally registered before November 8, 1960, retained the right to re-register under the old law. See La. Const., Art. VIII, § 1(f), as amended by Act 613 of 1960; Op. La. Atty. Gen., September 28, 1961.

[44] U.S. Bureau of the Census, *Estimates of Illiteracy by States* (Feb. 12, 1963), p. 2. No figures are available by race. Louisiana had the highest rate of illiteracy in the Nation in 1960, according to the cited study.

[45] See note 2, *supra*, and Appendix B, *infra*, pp. 87–90.

[46] See, also, Pl. Ex. 9A through 9E.

elections for State office to white persons (R. 194) and thereby barred Negroes from the only balloting of significance in the Louisiana electoral process. In the face of the white primary, Negro registration never rose above one percent of the total number of registered voters between 1921 and 1946,[47] although Negroes constituted more than one-third of the State's adult population during those years.[48]

4. THE DEMISE OF THE WHITE PRIMARY, THE DECISION IN BROWN V. BOARD OF EDUCATION, AND THE RESURRECTION OF THE INTERPRETATION TEST

After this Court's 1944 decision in *Smith* v. *Allwright*, 321 U.S. 649, and the demise of the white primary, the number of registered Negro voters surged upwards.[49] On March 18, 1944, there were 1,029 Negroes (less than one-fifth of one percent of the total number of registered voters) on the registration rolls.[50] By March 17, 1956, registered Negroes numbered 161,410, or fifteen percent of the total.[51]

In 1954, this Court decided *Brown* v. *Board of Education*, 347 U.S. 483. Immediately thereafter, the Louisiana legislature created a Joint Legislative Committee to study ways and means of maintaining racially segregated schools in Louisiana,[52] which became

[47] Pl. Ex. 1. See Appendix C, *infra*, p. 91.

[48] See Appendix C, *infra*, p. 91.

[49] Other factors also were at play. For example, Negro veterans returning from World War II were determined to vote (See R. 808).

[50] Pl. Ex. 1. See, also, Appendix C, *infra*, p. 91.

[51] *Ibid.*

[52] Louisiana Legislature, House Concurrent Resolution No. 27 (1954).

known as the "Segregation Committee" (R. 800). Its chairman was William M. Rainach, State Senator from Claiborne Parish (R. 630), where there are more Negroes than white persons[53] (albeit 5,216 white persons but only 34 Negroes were registered to vote in the parish as of December 31, 1962[54]). Counsel for the committee was William M. Shaw, also from Claiborne Parish (R. 643–644). At about the same time, Rainach and Shaw helped to organize and incorporate the Association of Citizens Councils of Louisiana (R. 630, 644) to "protect and preserve by all legal means, our historical Southern Social Institutions in all of their aspects."[55] In 1956, the Association published a pamphlet, prepared by Rainach and Shaw, entitled "Voter Qualification Laws in Louisiana—The Key to Victory in the Segregation Struggle" (R. 195). The Foreword of the pamphlet stated (R. 196):

> The Communists and the NAACP plan to register and vote every colored person of age in the South. * * *
>
> They are not concerned with whether or not the colored bloc is registered in accordance with law. * * *

The pamphlet advocated that, in order to "maintain segregation and to preserve the liberties of our people", the voter qualification laws, including the interpretation test, should be strictly enforced (R. 196, 198), and the Louisiana registration rolls purged of the "great numbers of unqualified voters who have been illegally registered", and who "invariably vote in

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[53] Pl. Ex. 2, Table 27, p. 77.

[54] Pl. Ex. 14. See Appendix D, *infra*, p. 93.

[55] Pl. Ex. 5A, Article II(1) (Act of Incorporation).

blocs and constitute a serious menace to the community" (R. 198). The "Key to Victory"—subtitled "A Manual of Procedure for Registrars of Voters, Police Jurors and Citizens Councils" (R. 195)—was widely distributed (R. 634, 645). It was the principal topic of discussion at State-sponsored meetings on voter registration (R. 784, 793) attended by registrars and other public officials, and it was distributed to all persons in attendance.[56]

The first phase of the program was to eliminate Negro voters from the registration rolls. In pursuit of this objective, Rainach and Shaw, in their dual role as legislative and Citizens Council officials, traveled about the State helping to organize local citizens council groups and urging that they challenge the registration status of all "unqualified" voters (R. 632, 646).[57] The consequence was that purges were conducted in many parishes throughout the State. One such purge, in Washington Parish, was reviewed by this Court in *United States* v. *Thomas,* 362 U.S. 58, affirming *United States* v. *McElveen,* 180 F. Supp.

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[56] Pl. Ex. 105 through 111. These exhibits are minutes of congressional district conferences on "Uniform Enforcement of Louisiana Voter Qualification Laws." The minutes of two such conferences are included in the printed record (R. 778–799).

[57] See, also, Pl. Ex. 22G, pp. 9–10, Pl. Ex. 5A–5K. Under Louisiana law (La. R.S. 18:245), any two registered voters of the parish may file affidavits of challenge with a registrar of voters stating their belief that a voter is illegally registered or has lost his right to vote. The registrar is required to notify the registrant thus challenged, who must then appear in person before the registrar within ten days and prove his right to remain on the registration rolls by affidavit of three registered voters. If the challenged registrant is unsuccessful, his name is canceled from the rolls. See, also, La. R.S. 18:132–136.

10 (E.D. La.). Purges also were undertaken elsewhere: *e.g.*, Bienville;[58] De Soto;[59] La Salle (R. 40–41); Rapides (R. 41–47); Lincoln (R. 54–57); Ouachita (R. 57–64); Jackson (R. 65–68);[60] Richland (R. 377–378); Red River (R. 397, 402); Union (R. 459, 461); Winn (R. 470, 475–479) and East Feliciana (R. 539–545). The purges accomplished their objective.[61] Challenges were issued to a vast number of Negroes, but only a token number of whites.[62] White registrants whose application forms contained deficiencies similar to those for which Negroes were purged were not removed from the rolls.[63] The registrar of Winn Parish testified in her deposition that Citizens Council members, while reviewing registration applications and challenging Negroes for alleged errors, corrected similar mistakes on their own applications (R. 476). When contested in federal court, the challenges were found to be racially discrimina-

[58] Pl. Ex. 20A, pp. 146–147. See *United States* v. *Association of Citizens Councils of Louisiana*, 196 F. Supp. 908, 910 (W.D. La.), invalidating the Bienville Parish purge and directing that the purged voters be restored to the rolls.

[59] Pl. Ex. 162A–D.

[60] See *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La.), invalidating the Jackson Parish purge and directing that the purged voters be restored to the rolls.

[61] In parishes on periodic registration (Pl. Ex. 14; La. R.S. 18:231), the objective was achieved without resort to the challenge statute, because the rolls were cleared automatically. In other parishes a purge was unnecessary because, as in East Carroll, Madison, Tensas and West Feliciana, there were no registered Negroes, or, as in Claiborne, only a few (Pl. Ex. 152).

[62] See, *e.g.*, R. 40, 43, 53, 57, 64, 417–418, 475–476; Pl. Ex. 20A, p. 188; Pl. Ex. 20J, p. 221.

[63] See, *e.g.*, R. 476; Pl. Ex. 20A, pp. 203–205.

tory. *United States* v. *Thomas*, 362 U.S. 58; *United States* v. *Association of Citizens Councils of Louisiana*, 196 F. Supp. 908 (W.D. La.); *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La).

In the wake of the purges, and with Negro registration substantially depressed, the Segregation Committee and the State Board of Registration jointly sponsored, in late 1958 and early 1959, conferences in each congressional district (R. 776–778). The registrars of voters were required to attend (R. 481, 800). Other public officials as well as officers and members of Citizens Councils also attended (R. 778–781, 785–787).[64] At these meetings, which were chaired by Rainach (R. 776; 778),[65] the "Key to Victory" was officially distributed to the registrars (R. 784–793). Rainach, still chairman of the Segregation Committee and President of the Association of Citizens Councils (R. 630), stressed that registrars had "become critically important officials" (R. 789) and "the focal point of the solution to our problems"—problems which "our forefathers in Louisiana" in 1897 knew would be solved by a "program" of "voter qualification law enforcement" (R. 790). Rainach outlined the role that such a "program" would play in maintaining Louisiana's "separate school system and other domestic institutions and powers" (R. 781, 789). He declared that "[t]he fight for school integration in the South has shifted from the courts to the political arena, from legal moves

[64] See, also, Pl. Ex. 105, 107, 109–111.

[65] See, also, R. 784, 799.

to a fight for the votes of Negro masses who must be fully registered before their political power can be brought to bear" (R. 790). He reminded the registrars that during the Reconstruction Period "integrated schools were established in Louisiana under a Reconstruction Constitution adopted by the Negro vote", and warned that, with Negroes constituting 32% of the population of Louisiana, the balance of Louisiana political power "could very easily shift in the direction it shifted during the Reconstruction Era, if Negroes are permitted to register without regard to qualifications provided by law" (R. 790).

Mr. Shaw—still counsel for the Segregation Committee and an official of the Association of Citizens Councils (R. 644; 649)—explained the registrar's function. He told the registrars that "[t]he key to the solution of our whole problem lies in the interpretation of the Constitution * * *" (R. 795).[66] He urged the registrars to require applicants to interpret the Constitution and provided them with 24 test cards to be used for that purpose (R. 783, 795).[67] He stressed that the interpretation test was a test of "native intelligence," not education, and that an "educated fool" would not be able to qualify. "Experience teaches", he suggested, "that most of our white people have this native intelligence while most Negroes do not", and that, therefore, if the test were "fairly administered", most Negroes would be ex-

[66] See, also, Pl. Ex. 107, p. 5; Pl. Ex. 109, p. 6; Pl. Ex. 110, p. 9; Pl. Ex. 111, p. 5.

[67] See, also, Pl. Ex. 105, p. 3; Pl. Ex. 107, p. 5; Pl. Ex. 109, p. 6; Pl. Ex. 110, p. 9; Pl. Ex. 111, p. 5.

cluded (R. 650–651). Yet, Mrs. Mary C. Flournoy, formerly Registrar of Winn Parish, testified that Rainach and Shaw came to her office (R. 474) and that (R. 477, 483):

> Rainach told me if * * * I can't fail them [Negro applicants] any other way, I could pull those Constitutional reading cards on them. * * *
>
> * * * Mr. Rainach wanted me to pull those hard cards on colored people.

5. THE INTERPRETATION TEST IN PRACTICE

(a) *Partial nullification of the test*

The parties to this suit stipulated that the interpretation test was not in fact used by the incumbent registrars in Caddo, Jefferson, East Baton Rouge, or Orleans parishes[68]—the four largest parishes in the State—where almost forty percent of the State's registered voters reside.[69] In the twenty-one parishes in which the test was shown to have been administered, its earliest known use occurred in 1954,[70] and it was not generally in use in those parishes until late 1956.[71]

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[68] Pl. Ex. 16 (R. 32); Transcript of Hearing, March 4, 1963, p. 4 (The transcript begins at p. 84 of the original record).

[69] Pl. Ex. 1.

[70] The former registrar of Plaquemines Parish (who assumed office in 1945) testified that he first began to use the test in late 1954 (Pl. Ex. 20B) (Deposition of Frank Giordano, pp. 245, 255–257).

[71] The parishes in which the test was shown to have been used, and the dates of commencement, are Bienville (1955) (R. 441); Claiborne (date unknown) (Pl. Ex. 4); De Soto (1956 or thereafter) (R. 569); East Carroll (1961) (R. 531); East Feliciana (date unknown) (R. 541); Franklin (1958 or 1959) (R. 491–492); Jackson (1960) (R. 585); La Salle (1955 or 1956) (R. 348); Lincoln (test commenced because of "pres-

Though some effort was made to generalize employment of the test after that time, the Board of Registration issued no binding instructions with respect to administering the interpretation clause, contenting itself with "suggestions" and ambiguous "recommendations" (see R. 606, 607, 626, 803, 804, 813, 815). In October, 1961, the Board for the first time adopted a clear-cut resolution directing registrars throughout the State to use the test and prepared written cards for that purpose (R. 146–169, 608–609); but the indication is that the resolution never left the Board's office (R. 612–617). In any event, it is clear that the registrars, if advised, did not obey. Moreover, less than a year later (in mid-1962, while this suit was pending), the Board promulgated comprehensive instructions implementing the new "citizenship test" and omitted all reference to the interpretation test (R. 224–234). See *infra*, pp. 43–45.

(b) *The testing of some applicants but not others*

In some of the parishes where the test has been used the registrars have not tested every applicant. The relevant provisions of the Louisiana Constitution and statutes (*supra*, pp. 2–3) require only that the applicant shall "be able to" understand and give

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sure"; commencement coincided with first attempts of Negroes to register in large numbers) (R. 506, 511–512); Ouachita (1956) (R. 63); Rapides (date unknown; test in use at least since June 13, 1956) (R. 355); Red River (1956) (R. 400); Richland (1957) (R. 377); St. Helena (1959) (R. 421, 423); Union (1956) (R. 461); Webster (1957) (R. 49); West Feliciana (1959) (R. 577); Winn (1960) (R. 471); Plaquemines (1954) (Pl. Ex. 20B, *supra*, note 70; *United States* v. *Fox*, 211 F. Supp. 25 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5)).

a reasonable interpretation of a constitutional section. The registrar of La Salle Parish testified that he did not give each applicant the test because he understood these requirements "to mean that they must be able to and not that they must do it each time" (R. 350). The former registrar of Lincoln Parish gave the test to some applicants, but not to others, because she "could tell when they were qualified and when they weren't * * *" (R. 510). The Webster Parish registrar was more likely to dispense with the test if she knew the applicant (R. 175)."

(c) *Divergent standards and procedures in the use of the test*

Those registrars who have administered the test have employed widely divergent standards and procedures in determining which constitutional sections to use. Some chose only provisions from the State constitution (R. 428, 433, 487); others employed sections exclusively from the federal Constitution (R. 588). In Red River Parish, the registrar ordinarily used only two sections, and occasionally another "just to break the monotony" (R. 405). The Webster Parish registrar opened a book containing the Louisiana Constitution "at random" and required the applicant to interpret the section which appeared on the page revealed (R. 394). Some registrars employed a set of test cards (each containing three sections of the Constitution) which were distributed to them by the Segregation Committee (R. 9–20, 201, 409, 472–473, 493–494, 532–533, 541, 556, 578). The registrar of

[12] See, also, R. 62.

Ouachita Parish used a set of test cards containing sections chosen by the Citizens Council (R. 63). The Plaquemines Parish registrar used cards provided by Leander Perez, the Parish District Attorney."

To one registrar the selection of a test question was "just about a ene-mene-minee-mo situation * * *" (R. 464). But others tailored the test to fit the applicant. The registrar of Red River parish would choose a card which he "thought the particular applicant would be capable of answering" (R. 411) and accordingly gave an attorney a "pretty hard card" (R. 410; compare R. 467). The former registrar of Lincoln Parish similarly "picked out what * * * [she] thought would be good for * * * [the] particular individual" (R. 507).

While several registrars required an applicant to give a reasonable interpretation of one of three sections on a test card (R. 542, 533, 579), others required two out of three (R. 357, 497) and still others demanded a reasonable interpretation of each of three sections (R. 411, 531). One registrar would give an applicant at least two more provisions if he failed to interpret the first one, and, sometimes, if he failed on all three, would ask him "just to pick out any part of the Constitution and see if he could interpret that" (R. 463). Some registrars would define a word that the applicant did not understand (R. 356; 372), or give the applicant a dictionary (R. 544). Others would refuse to give the meaning of troublesome words (R. 382, 427, 447, 535, 591).

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[13] Pl. Ex. 20L, p. 528.

For some registrars it was enough that the applicant read the constitutional section silently; his interpretation sufficed to show whether he could read it (R. 349, 517). Other registrars insisted that the applicant read the constitutional section aloud (R. 472, 485, 506, 542, 579). Many registrars allowed the applicant to refer to the constitutional section while giving his interpretation (R. 357, 372, 544, 582). But one required the applicant to "hand the book back" after reading the section, and refused to permit the applicant to examine the section further (R. 337–338). The registrar of Rapides Parish read the applicant a portion of the Constitution (R. 587), and did not let him look at the section at all (R. 591).

Most registrars required applicants to give their interpretations orally (R. 361, 374, 381, 401, 424, 448, 465, 473, 485, 531, 542, 570, 587). A few asked for written interpretations (R. 497; Pl. Ex. 20L, p. 537). Registrars were not required to maintain a record of the test questions put to the applicants or the interpretation given, and most registrars kept no records or virtually none (R. 352, 360–361, 374, 381, 394, 406, 425, 465, 473, 518, 532, 571, 582, 588).

### 6. RACIAL DISCRIMINATION IN THE ADMINISTRATION OF THE INTERPRETATION TEST

The present record focuses on seven of the twenty-one parishes where it appears that the interpretation test was used.[74] In each of these parishes the evidence

[74] In these parishes—Plaquemines, Red River, Jackson, Bienville, Webster, East Feliciana and Ouachita—the United States had filed or was preparing separate suits under 42 U.S.C. 1971

is that the registrar discriminated on racial grounds in the administration of the test. The discrimination assumed various forms:

(a) *Administration of the test to Negroes but not to whites*

In several parishes the test was given to Negroes but not to whites. Thus, in *United States* v. *Clement*, 231 F. Supp. 913 (W.D. La.)—a separate suit brought by the United States against the Webster Parish registrar—the court found that the registrar, between January 1957 and September 1962, gave the test "only to Negroes", and that she reintroduced the test "in 1963, at a time when large numbers of Negroes began to apply and were successfully completing the citizenship test",[15] and, again, the intrepretation test "was administered only to Negroes." The court noted that "[t]hirty-one Negro witnesses testified that they took and failed the oral test at least once, while twenty-seven white witnesses testified that they registered without taking the oral test." 231 F. Supp. at 915. Highly educated Negroes were required to take the test and gave interpretations which failed to satisfy the registrar. The court in *Clement* found that (231 F. Supp. at 915):

> Among the Negroes who were denied registration for mailing the oral test were three public school principals, four public school teachers, a dentist, and an insurance agent. At the same

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to restrain racial discrimination in the registration of voters and evidence consequently was readily available for use by the government in the present case.

[15] The new test, initiated in August, 1962, is described *infra*, pp. 43–45. See, also, the relevant constitutional and statutory provisions, *supra*, pp. 4–5.

> time, white persons with sixth-grade, fifth-grade, and even second-grade educations successfully registered without being required to take the test.

The record reflects similar discrimination by the Jackson Parish registrar, who also was a defendant in a separate suit brought under 42 U.S.C. 1971. *United States* v. *Wilder*, 222 F. Supp. 749 (W.D. La.). In *Wilder* the court found that (222 F. Supp. 749, 752):

> * * * [T]he defendant registrar has required Negro applicants but not white applicants to interpret sections of the federal Constitution. * * * She has rejected otherwise qualified Negroes for failure to interpret to her satisfaction a section of the Constitution. * * *

Among the Negroes rejected in Jackson Parish for failing the interpretation test were at least two school teachers and a college student.[16] The Negro college student failed the test after reading a portion of the Constitution on the registrar's instruction, not knowing that after reading it she would have to interpret it without a second look (R. 327). White persons with less than seventh grade educations registered during the same period without taking the test at all, so far as they could remember (R. 329–335).

Again, in East Feliciana Parish, between 1958 and 1961 eight Negro school teachers failed the intepretation test while eight white illiterates were registered

[16] R. 323–328, 336–338. The registrar kept no record of the administration of the interpretation test, except for occasional notes on the rejected application forms of Negroes. (R. 588; Pl. Ex. 4–JX.)

(see R. 128)."[17] Some white persons were not required to read or explain anything to the registrar (R. 767–768, 774). Other white persons received only a token test. White registrant Eva Dees described the administration of the test as follows (R. 772):

> He hold out a bunch of cards, and I drawed one, and then he taken it back. I didn't even look at the card. He taken it back and he read on there, and he asked me did I think everybody should go to the same church, * * * and I said I thought everybody should go to the church of their choice.

Yet, a Negro minister was rejected after interpreting the clause on search and seizure as "To search you would have to get an authorized authority to read a warrant" (R. 760).

(b) *Assistance given to whites but not to Negroes*

Discrimination in the administration of the test also took the form of assistance given to whites but not to Negroes. In *United States* v. *Fox,* 211 F. Supp. 25 (E.D. La.) affirmed, 334 F. 2d 449 (C.A. 5)—a separate suit brought by the United States against the registrar of Plaquemines Parish—the trial court found that "[t]he evidence abundantly shows that some of the white registrants now on the rolls received help in

[17] See Pl. Ex. 4–EF. This exhibit consists of microfilm copies of the voter registration records for East Feliciana Parish. Xerox copies of the application forms of the eight Negro teachers were submitted to the trial court in a special display which was not offered in evidence. The statistical reports of the Louisiana Secretary of State reflect that between October 1958 and October 1961, the number of white illiterates registered in East Feliciana Parish increased by eight. Pl. Ex. 14.

the filling out of their * * * constitutional test cards." 211 F. Supp. at 33. Commenting on a display furnished to the court by the United States showing similar interpretations for the period October 4–7, 1960, the court stated: it "shows conclusively that all of the 55 (white) applicants in the display were either assisted in taking the test or provided with the written answers for them to copy * * *" (*ibid.*).

The testimony, depositions and exhibits in the *Fox* case, which were introduced into evidence in the present case,[78] substantiate the court's finding. The uncontradicted testimony of a white witness at the hearing on the motion for preliminary injunction in *Fox* was that, when she was unable to read and interpret the constitutional provision on her test card, the deputy registrar wrote out the answers on a separate sheet of paper so that she could copy them (Pl. Ex. 20K, pp. 338–339). The testimony of many white registrants at the hearing showed that they did not have the slightest comprehension of the constitutional provisions which the registrar found they had interpreted satisfactorily (Pl. Ex. 20J, pp. 299–300, 321). Whites gave strikingly identical interpretations of constitutional provisions on given days which differed markedly from the interpretations—virtually identical to each other—which white applicants gave on

[78] Pl. Ex. 4–PL; Pl. Ex. 20B; Pl. Ex 20J–L.

other days." Negroes, on the other hand, uniformly were refused assistance on the interpretation test.[80]

*(c) Discriminatory Selection of Constitutional Sections for Interpretation*

In *United States* v. *Fox, supra,* the trial court, besides finding that the Plaquemines Parish registrar had assisted whites on the interpretation test, also found that, although the constitutional test forms in use in the parish had been distributed evenly since 1961, before that year "white applicants were apparently given the easier forms to answer * * *." 211 F. Supp. at 33.[81]

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[79] One dramatic example is the interpretation of the Tenth Amendment in Plaquemines Parish. Leander Perez, the District Attorney, had suggested the following interpretation:

> State rights, or the right of the people to self government in the States, and the natural rights of the people were specifically reserved in the 10th Amendment to the United States Constitution.

On January 20, 1956, 30 of 31 white applicants answered the question (and were accepted) with an identical two-word interpretation: "States rights." Yet, on September 18, 1958, all 12 white applicants gave the following wordy interpretation (with only the slightest variation): "The right of the people to self government in the state and the natural right of the peoples are reserved in the 10th amendment." Finally, on October 9, 1959, 12 white applicants discovered a middle ground (again, with only trivial differences): "States right or people's right to self-government." See Pl. Ex 4–PL.

[80] Depositions of Carolyn Sapp, February 27, 1962, p. 101; Rosa Thurmond, February 27, 1962, p. 120; Catherine Prout, February 27, 1962, pp. 133, 144; Thelma Taylor, February 27, 1962, pp. 172–173; John Taylor, February 27, 1962, p. 13; Martha Williams, March 1, 1962, p. 76; Sarah Brown, March 1, 1962, p. 99 (Pl. Ex. 20B).

[81] In 1959, 96 percent of the 1,586 white applicants received one of the two easiest of the 25 test cards then in use. Pl.

Similarly, in Red River Parish, for the short period of time during 1957 in which the registrar used printed forms to administer the interpretation test, 87.4 percent of the white applicants received an identical and relatively simple test given to only 5 percent of the Negro applicants.[82] Conversely, 36.4 percent of the Negro applicants received a comparatively more difficult form which only 2.5 percent of the white applicants received.[83]

(d) *Discriminatory Grading of Interpretations*

Another form of discrimination against Negroes in the administration of the test was in the grading of the interpretations. In Bienville Parish, whites who never had gone to school, including one illiterate, "passed" the test (R. 297, 301). On the other hand, at least five Negro school teachers,[84] including two with masters' degrees, from Columbia and Stanford Universities respectively (R. 285, 289), failed the test.

One Negro school teacher who failed testified as follows (R. 290–291):

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Ex. 4–PL. Each of these cards (nos. 2 & 8) contained a clause on freedom of speech and on freedom of religion. No Negro received eitther of these two cards. *Ibid.*

[82] This form contained two provisions about freedom of religion and one about freedom of speech. Pl. Ex. 4–RR. Sample forms used in Red River Parish are contained in Pl. Ex. 11–G.

[83] *Ibid.* In addition to a provision about freedom of speech, this form contained provisions concerning ex post facto laws and self-incrimination.

[84] Pl. Ex. 20A, pp. 277–284, 322–333.

Q. To the best of your recollection, this is the provision she gave to you; is that correct?

A. Yes, sir.

Q. Would you mind reading that provision?

A. "Section 16. Rolling stock operated in state—rolling stock operated in this state, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission and shall be taxed for state purposes only, at a rate not to exceed 40 mills on the dollar assessed value."

* * * * *

[The witness explains she cannot repeat verbatim the interpretation she gave the registrar]

The COURT: In the first place, do you know what the term "rolling stock" means?

The WITNESS: I think it has to do with locomotives, freights, and passenger cars and the like.

By Mr. OWEN:

Q. What does this provision say about rolling stock?

A. My understanding is that it means if the owner of which does not have residence within the State, his rolling stock shall be taxed not to exceed 40 mills on the dollar.

Q. Do you have any recollection as to what Mrs. Culpepper said to you after you attempted to interpret this provision?

A. She just said, "I am sorry. Your interpretation is incorrect." And I said, "Thank you." And went out.

The discriminatory practices of the Bienville Parish registrar were the subject of a separate suit brought by the government under 42 U.S.C. 1971, *United States* v. *Association of Citizens Councils of Louisiana*,

196 F. Supp. 908 (W.D. La.). The court there found (196 F. Supp. at 911):

> At the trial the Government presented a veritable parade of Bienville Parish Negroes, holding bachelor's and master's degrees, who, since 1956, on one technicality or another, have been denied the right to register or re-register. An equally impressive group of white persons testified that they were permitted to register, although * * * their level of education was far below those of many of the Negro applicants. It is perfectly clear from all the evidence that the Registrar * * * has applied far more stringent qualification standards upon Negro applicants than she has upon whites, solely because of race. * * *

In Red River Parish, a Negro school teacher, who testified that she had been denied registration three times for failing to interpret sections of the Constitution to the satisfaction of the registrar (R. 721–725), on one occasion was rejected for failure to interpret satisfactorily the Fourth Amendment to the Constitution of the United States (R. 724). She told the registrar that the Fourth Amendment means "that nobody could just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant what they were to search and seize" (R. 724). The registrar told her that this was wrong (*ibid.*). In Ouachita Parish, a Negro beautician with a high school education (R. 702) testified that her registration had been challenged in 1956, and that upon her re-registration she had been required to read and explain a constitutional provi-

sion (R. 703–704). The registrar "reached under the desk" and obtained a test card, looked at it, put it back, and then gave the applicant another one (R. 704). Asked to explain the contents of the card, the applicant told the registrar what she thought it meant, but the registrar "said what I was saying was right, but wasn't the way she wanted me to say it" (R. 704). Yet, in the few parishes where interpretations were reduced to writing, registrars accepted from white persons interpretations such as "Freedom of Religion" for a section entitled "Freedom of Religion" (R. 427).

(e) *Administration of the test to Negroes discriminatorily purged from the rolls while leaving on the rolls whites who never had taken the test*

In the parishes where Negroes were discriminatorily purged from the rolls (*supra*, pp. 23–24), the interpretation test was given to the purged Negroes who sought to re-register, while whites, who had not taken the test because it had not been in use before the purge, remained on the registration rolls without being subjected to the test.[35] An example is Red River Parish, where the test was first employed in 1956. In *United States* v. *Crawford*, 229 F. Supp. 898, (W.D. La.), the court found that (229 F. Supp. at 900):

> In October 1956, the local Citizens Council challenged the registration status of 1,146 of the

[35] In some parishes—*e.g.*, East Feliciana (R. 818)—one of the grounds for the purge was that the challenged registrants had not been required to interpret a constitutional section, although at the time they had registered the regristrar had required no one to take the test.

> 1,362 Negro voters and 27 of the 3,585 white voters. * * * The Registrar thereafter sent out citations to the challenged voters and removed their names from the voter rolls * * *. When * * * [the purged voters] attempted to re-register, they were required to interpret three constitutional clauses which were printed on test cards. At least 35 Negroes were rejected when they attempted to re-register after the purge and before January 1, 1957.

A majority of the 35 Negroes were rejected on the ground that they could not pass the interpretation test (Pl. Ex. 11G). The court held that "[t]he practice of using the interpretation test * * * as a device to discriminate against Negroes is in violation of 42 U.S.C. § 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States." 229 F. Supp. at 902.

Similarly, in Ouachita Parish, on the heels of a Citizens Council purge of more than 3,000 Negroes in 1956 (R. 57–60), the registrar began using the interpretation test for the first time (R. 61–63, 644). Even though the registrar had not administered the test to anyone prior to the purge, one of the grounds for the removal of the Negro registrants was inability to give a reasonable interpretation of the Constitution (R. 59). Those of the challenged Negroes who were unknown to the registrar, and whom she "suspected" of being unable to read and interpret a portion of the Constitution, were required to undergo the interpretation test (R. 62). Negro registration abruptly

declined.[86] The unchallenged whites, who had never been subjected to the test, remained on the rolls.[87]

In some parishes permanent registration was adopted following the purge, so that the whites who had been registered without taking the interpretation test were frozen on the rolls. In Bienville Parish the registrar began using the interpretation test in November 1955 (R. 441). This was followed in September, 1956, by a Citizens Council purge of 95% of the registered Negroes and 1% of the registered white persons.[88] Immediately thereafter, the parish adopted permanent registration. *United States* v. *Association of Citizens Councils of Louisiana,* 196 F. Supp. 908, 911. Thus, the interpretation test became a requirement for Negroes but not for the whites who were permanently enfranchised. *Ibid.*

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[86] In March 1956, there were 5,782 Negroes on Ouachita's registration rolls (Pl. Ex. 151). Only 952 Negroes were on the rolls as of August 1962 (Pl. Ex. 14). White registration increased during this period from 24,184 to 24,995 (Pl. Ex. 14). See Appendix D, *infra*, p. 93.

[87] In the 6 years following the purge, 37.6% of the Negro applicants were rejected for alleged failure to pass the test. Less than one-half of one percent of the white applicants were rejected for this reason. Pl. Ex. 27. The following table gives the comparative picture:

*March 1, 1956–August 31, 1962*

| | Passed Test | Failed Test | Percent |
|---|---|---|---|
| Negro applications | 819 | 493 | 37.57 |
| White applications | 11,555 | 53 | .46 |

[88] Pl. Ex. 4–BV.

### 7. THE DECLINE IN NEGRO REGISTRATION FOLLOWING EMPLOYMENT OF THE INTERPRETATION TEST

As the table in Appendix D (*infra*, p. 93) reflects, between 1956 and 1960, in the parishes where the interpretation test was used, Negro registration dropped sharply while white registration remained constant. In those 21 parishes the total number of registered Negroes fell from 25,361 to 10,256. This decline was applauded in a report issued in 1961 by the Louisiana Subcommittee on Registration, an adjunct of the State Sovereignty Commission (R. 805). Reviewing the comparative voter registration totals of Negroes and whites since 1888, the report called attention to the fact that from 1956 until 1960, "the registration figures of colored people actually declined 2,377" even though 81,214 Negroes became of voting age, whereas "114,629 white people * * * became of voting age and * * * white registration increased 96,620" (R. 809). In reviewing the "progress" that had been made, the report stated that "registration in the State of Louisiana seems to have stabilized itself. From 1956, in which you had 84.7 percent white and 15.3 colored, we, today, have 86.2 percent white and 13.8 percent colored" (R. 811).

### 8. THE ADOPTION OF THE NEW "CITIZENSHIP" TEST

In August 1962, eight months after the filing of this action, a new "citizenship" test was introduced as a prerequisite to voting registration. By a measure

passed in June and effective August 1[20] (La. R.S. 18: 191A,. as amended by La. Act 62 of 1962, *supra,* p. 5)—later expressly ratified by constitutional amendment (La. Const., Art. VIII, § 18, as amended by La. Act 539 of 1962, adopted November 6, 1962, *supra,* p. 4)[21]—the legislature instructed the State Board of Registration to "prescribe and direct the registrars of voters to propound an objective test of citizenship under a republican form of government." The Board promptly complied. It prepared, and directed all registrars to use, a set of ten cards, each containing six multiple-choice questions (R. 235–244). The applicant selects one of the ten question cards, and must answer correctly four of the six questions on the card in order to register (R. 228). The applicant marks his answers on answer cards, called the "Form 11" (R. 245–246).

The new test was made compulsory and the accompanying instructions from the Board of Registration made no reference to the constitutional interpretation test (R. 225–231). Indeed, as we have noted, it has been suggested that the citizenship test was intended to wholly supplant the old test. Yet, the provisions of the Louisiana Constitution and statutes relating to the interpretation test were not repealed, and there is

[20] Although approved by the Governor on June 21, the measure was not certified as "emergency legislation" and accordingly became effective 20 days after the adjournment of the 1962 legislature, *i.e.*, August 1, 1962. See *Acts of Louisiana, Regular Session 1962*, pp. iii, 123 (Act 62).

[21] Existing provisions of Section 1 of Article VIII of the State Constitution (*supra*, p. 4) were apparently viewed as a sufficient predicate for the legislation.

evidence that, in at least one parish, the former constitutional interpretation test was revived. See *United States* v. *Clement*, 231 F. Supp. 913, 915 (W.D. La.).

### C. THE DECISION BELOW

The court below (Judge West dissenting) found that the interpretation test "was adopted in 1921 for the purpose of creating a device to discriminate against Negroes"; that until the 1950's "the test was not needed and not used"; that State officials in the 1950's reaffirmed the test's discriminatory purpose when they urged that it be used to disfranchise Negroes; that since the mid-1950's the test consistently has been used to achieve its intended discriminatory purpose (R. 86); and that it had succeeded in disenfranchising Negroes, directly when used against them, indirectly by inhibiting others from applying for registration (R. 135). The court concluded that the interpretation test vests in the registrars an uncontrolled discretion to determine subjectively which persons are qualified to vote, that it bears no relationship to literacy or to any qualification for voting within the legitimate interest of the State (R. 87), and that it is unconstitutional "because of its unlawful purpose, operation, and inescapably discriminatory effect" (R. 139–140).

With respect to the new multiple-choice "citizenship" test, the court concluded that it makes registration more difficult for future applicants than it had been for white persons in the twenty-one parishes where the interpretation test had been used (R. 88). The court found that the State had neither ordered a

re-registration in the twenty-one parishes, nor taken any other steps to correct the discrimination resulting from the interpretation test (R. 88), and that the use of the new test inevitably discriminates against Negroes since they constitute the unregistered class (R. 88).

In its decree the court declared the Louisiana constitutional and statutory provisions authorizing the interpretation test unconstitutional (R. 81) and enjoined the defendants and their agents, including all Louisiana registrars, from using the test (R. 83). The court also issued an injunction restraining the registrars of the twenty-one parishes where the test had been used in the past from requiring, in the absence of a general re-registration of all voters in the parish, any applicant for registration who was of voting age and possessed of the residence requirements as of August 3, 1962 (the date the new test was adopted) to take the multiple-choice "citizenship" test as a prerequisite to registration to vote (R. 82).[21] The registrars of the twenty-one parishes were further ordered to submit monthly reports to the court showing, by race, the persons accepted and rejected, and, in the case of rejected applicants, the reasons for rejection (R. 83).

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[21] The court retained jurisdiction "for the purpose of entering such additional orders as justice may require, including orders of modification upon proof by the defendants that in one or more of the * * * twenty-one parishes the discriminatory effects of the interpretation test have ceased to exist or upon proof by the plaintiff that additional parishes not embraced in this decree have used the understanding or interpretation test to discriminate against Negroes" (R. 83).

## SUMMARY OF ARGUMENT

### I

Because the issues are fully briefed in the companion case of *United States* v. *State of Mississippi* (No. 73), we do not here repeat the discussion directed to two threshold questions: (1) whether the United States is authorized to institue proceedings challenging the constitutionality of State voter qualification laws (as opposed to the independent local practices of individual registrars), and (2) whether, in any event, the State itself may be joined as a party defendant in such an action (particularly when there are local registrars amenable to suit). We here adopt the affirmative conclusion on those points and the supporting arguments already given in the *Mississippi* case.

A third preliminary argument is that the State Board of Registration of Louisiana is not a proper defendant. Our reply is that the board is expressly charged by statute (and now by the State Constitution) with prescribing the practical means for implementing the voter qualification laws, including the constitutional understanding-and-interpretation clause, and that it can, moreover, effectively control the local registrars through its plenary power to remove them "at will."

It is also contended that the local registrars of voters (who were not joined) were indispensable parties defendant. The short answer is that, though they were necessarily affected by the decree and would have been proper parties, the individual registrars were not indispensable because they had no personal in-

terest in the outcome nor any personal defense to the claim. The suit did not seek to control the registrars' discretion: the only objective of the proceeding was to enjoin the execution of invalid State laws, and that State interest was appropriately represented by the named defendants, the State Board and the State itself.

## II

The Louisiana constitutional and statutory provisions conditioning voting registration on the applicant's ability to "understand and interpret" any section of the state or federal Constitutions contravene the Fifteenth Amendment (and 42 U.S.C. 1971(a)) because, potentially and actually, they invite racial discrimination in the qualification of voters.

A. On its face, the Louisiana constitutional interpretation test is suspect. It is no mere literacy test: it erects an unnecessarily difficult standard which, if taken seriously, would bar the franchise to most adults. Presumably, it was designed for selective enforcement. The test is admirably suited to that end. The subjective standard is necessarily vague and, given the great disparities among the several examination texts, it is inherently unequal. Moreover, no effort is made to confine (by statute or by uniform regulation) the absolute discretion of individual registrars with respect to the procedures to be followed in administering the test or the criteria for judging the adequacy of the constitutional interpretation given by an applicant. The opportunities for discrimination which the interpretation test presents do not represent remote possibilities. In light of the prevailing public

and private pressures, it was almost inevitable that the flexibility of the provision would be widely used as a device to bar the Negro from the exercise of the franchise.

B. The history of the practical administration of the interpretation test fully confirms this view. In fact, the apparently mandatory qualification was ignored until it became useful as a means of holding Negro registration within "tolerable limits." When and where actually used, however, the interpretation test has been effective, as the registration statistics for the 21 parishes involved dramatically demonstrate. The evidence is that racial discrimination resulted from the inherent versatility of the test, which condoned gross disparities, along color lines, in the mode of administration, the selection of examination texts, and the grading of responses. We conclude that the implementation of provisions which breed these practices was properly enjoined.

III

Finally, we address ourselves to the conditional injunction against the use of a new multiple-choice "citizenship" test in those 21 parishes where it was shown that the constitutional interpretation test had been used, until such time as there has been a complete reregistration of voters in those parishes. That relief was wholly appropriate in the present circumstances because it was the only practical means of partially erasing the discriminatory effect of the interpretation test. If the new high standard were now applied to future registrants it would impose an unfair burden

upon Negroes improperly denied registration through the interpretation test, and would "freeze" on the rolls those whites who were registered under more favorable and discriminatory conditions.

## ARGUMENT

### I

### THE UNITED STATES IS AUTHORIZED TO MAINTAIN THE PRESENT ACTION AND TO JOIN AS DEFENDANTS THE STATE AND THE STATE BOARD OF REGISTRATION, WITHOUT ALSO JOINING THE INDIVIDUAL REGISTRARS

So far as it is argued here that this suit by the United States is unauthorized (because it challenges the validity of voter qualification laws, and not merely the personal misdeeds of individual registrars) and that the State itself may not be sued (at least when registrars are available as defendants), the contentions are identical to the points advanced by the State in the companion case of *United States* v. *State of Mississippi* (No. 73). Indeed, for these propositions, the present appellants wholly rely on the majority opinion below in that case, and we agree that the same considerations govern both cases. Accordingly, on these issues, we respectfully refer the Court to our brief in the *Mississippi* case (see pp. 43–65).

There remain, however, two procedural questions which require separate treatment here. These are: (1) whether the State Board of Registration (or its members, the Governor, Lieutenant Governor and Speaker) was properly joined as a party defendant in this action; and (2) whether the local registrars of voters (all of them or those of the 21 parishes

most directly affected by the decree) were indispensable parties without whom the suit could not proceed.

### A. JOINDER OF THE STATE BOARD OF REGISTRATION WAS PROPER

The State Board of Registration has an important role in the administration of the Louisiana constitutional and statutory provisions under attack. Notwithstanding appellants' claim that neither the Board of Registration nor any of its members is charged with enforcing or are threatening to enforce any of the provisions challenged here (App. Br. 9, 11), Section 191 of Title 18 of the Louisiana Revised Statutes explicitly vests the Board with the duty to "prescribe by rules and regulations * * * the method of the administration of this Chapter" (*i.e.*, Chapter 1 of Title 18, entitled "Registration of Voters", which contains each of the statutory provisions implementing the constitutional interpretation test, *supra*, p. 3). To be sure, until 1962, the Board did little to assert its prerogative (see Statement, *supra*, p. 28), but the power remained. Moreover, in 1962, the Board's rule-making authority was expressly confirmed by constitutional amendment (La. Const. Art. VIII, § 18, as amended by La. Act 539 of 1962), and, in the same year, it was expressly directed both by the State Constitution (*ibid, supra*, p. 4) and by statute (La. R.S. 18:181A, as amended by La. Act 62 of 1962, *supra*, p. 5) to fashion, and instruct the registrars to administer, the "citizenship" test now enjoined in 21 parishes. And it complied (see Statement, *supra*, p. 44).

In the circumstances, it was clearly proper to join the members of the State Board, if only to relieve them, and the local registrars whom they have power to remove "at will" (La. Const., Art. VIII, § 18), from the dilemma of conflicting directives. Cf. *Bush* v. *Orleans Parish School Board,* 187 F. Supp. 42 (E.D. La.), affirmed, 365 U.S. 569; *id.,* 188 F. Supp. 916, 928–929, affirmed, 365 U.S. 569; *id.,* 190 F. Supp. 861, 865–866, affirmed, 366 U.S. 212; *id.,* 191 F. Supp. 871, 873–875, affirmed, 367 U.S. 908. See, also, *United States* v. *Barnett,* 376 U.S. 681, 684.[22]

There is, in any event, no requirement that relief be sought, or granted, only against the subordinate official most immediately engaged in administration of the challenged law. On the contrary, it is well settled that a three-judge court may properly enjoin all those charged with executing an unconstitutional statute. *Bevins* v. *Prindable,* 39 F. Supp. 708 (E.D. Ill.), affirmed *per curiam,* 314 U.S. 573; *Orleans Parish School Board* v. *Bush,* 268 F. 2d 78, 80 (C.A. 5).

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[22] A student of Louisiana Constitutions for the Louisiana Law Institute notes that:

> The [1921 Louisiana] Convention placed the power to remove any registrar in the State in the hands of an *ex officio* board of registration composed of the governor, lieutenant governor, and speaker, a majority of whom were more than likely to be white men. Should any registrar show a tendency to administer the new registration tests too liberally, or otherwise to conduct his office in a manner displeasing to the administration, the state board could remove him at will. * * *

Powell, *A History of Louisiana Constitutions*, Volume 1, Part 1, *Project of a Constitution for the State of Louisiana* (1954), p. 485.

See, also, *James* v. *Almond*, 170 F. Supp. 331, 341 (E.D. Va.), appeal dismissed, 359 U.S. 1006; *Evans* v. *Members of the State Board of Education*, 149 F. Supp. 376, 378 (D. Del.), affirmed *sub nom. Evans* v. *Buchanan*, 256 F. 2d 688 (C.A. 3), certiorari denied, 358 U.S. 836. The Louisiana Board of Registration, like the Board of Election Commissioners of Mississippi,[93] clearly falls in that category.

B. THE INDIVIDUAL REGISTRARS WERE NOT INDISPENSABLE PARTIES.

The contention that the registrars are indispensable parties to this suit is likewise without merit. A party is indispensable only if the decree would injuriously affect his rights or leave the final determination of the controversy inconsistent with equity and good conscience. *Shields* v. *Barrow*, 17 How. 130. The registrars of voters in Louisiana are not personally interested in a decree which enjoins them from enforcing certain provisions of State law. They have no "right" to enforce particular laws which are declared invalid. Nor is it inconsistent with equity and good conscience to invalidate a State law in a proceeding defended by the State itself. Indeed, if every agent who is bound by a decree need be joined as a defendant, there would be no need for Rule 65(d), F. R. Civ. Proc., which states that "[e]very order granting an injunction * * * is binding * * * upon parties to the action, *their officers, agents, servants, employees and attorneys*" (emphasis added).

[93] See the Brief for the United States in *United States* v. *State of Mississippi*, No. 73, this Term, pp. 66–68.

The question of indispensability arises in suits against governmental officials only when the action is against a subordinate and the issue is whether his superior must be joined. Compare *Ceballos* v. *Shaughnessy,* 352 U.S. 599; *Shaughnessy* v. *Pedreiro,* 349 U.S. 48. A superior may have the right to defend the actions of a subordinate under a program which it is the superior's ultimate responsibility to administer. The subordinate's only interest, on the other hand, is to do what his superior commands. Since the State and the State Board of Registration are parties to this suit, and have the opportunity to defend their interests, the subordinate's rights are in no way affected. While the registrars would have been proper parties, they are not indispensable.

## II

### THE LOUISIANA CONSTITUTIONAL AND STATUTORY PROVISIONS CONDITIONING REGISTRATION AS A VOTER ON THE APPLICANT'S ABILITY TO "UNDERSTAND AND INTERPRET" ANY SECTION OF THE STATE OR FEDERAL CONSTITUTIONS CONTRAVENES THE FIFTEENTH AMENDMENT AND 42 U.S.C. 1971

The central issue in this case is the constitutionality of the Louisiana "understanding and interpretation" test for voter registration, now embodied in Section 1(d) of Article VIII of the State Constitution and implementing legislation (*supra,* pp. 2–3). The court below struck it down on the ground that, in purpose and effect, the test is an instrument of racial discrimination. That ruling was the predicate for the further injunction prohibiting (subject to prescribed conditions) the use of a new voting test—the so-

called "citizenship" test—in those 21 parishes of the State where the evidence showed that the old interpretation test had been employed (see Point III, *infra*, pp. 76–80).

The provision in question requires of every applicant for registration as a voter (and no one may vote without first being registered)[94] that he "be able to understand and give a reasonable interpretation of any section of either [the State] Constitution [or the federal Constitution]." So reads the Louisiana Constitution today (Art. VIII, § 1(d), *supra*, p. 2), and so it has read, in substance, since 1921 (former Art. VIII, §§ 1(c) and 1(d), Appendix B, *infra*, pp. 87–90).[95] Nothing in the implementing legislation elucidates the constitutional text (see La. R.S. 18: 35–36, *supra*, p. 3).[96] The law nowhere specifies how

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[94] La. Const., Art. VIII, § 1(b); La. R.S. 18: 581–582.

[95] We have already noted that, until 1960 (when literacy was made a qualification for all future registrants), the State Constitution and statutes separately announced the qualifications applicable to literate and illiterate voters, although the requirements (except proof of literary) were much the same for both classes, including, in each case, a constitutional interpretation test (*supra*, pp. 18–20). The only relevant textual difference was the word "understand," originally confined to the provision for illiterates. At all times since 1921 every voter has been (at least nominally) required to "be able to * * * give a reasonable interpretation" of any portion of the federal or State Constitutions. See the comparative text of the pertinent Louisiana constitutional provisions reproduced in Appendix B, *infra*, pp. 87–90.

[96] The cited statutes merely track the pertinent language of former subsections (c) and (d) of Section 1 of Article VIII of the State Constitution. Though not revised in 1960 when the Constitution was amended, the statutory provisions must presumably now be read consistently with the new organic law.

the voting test shall be administered, thus leaving it to local registrars (at least in the absence of clear instructions from the State Board) [97] to determine for themselves, in each case, whether to examine an applicant formally and, if so, what procedure to follow and how to judge the response. The evidence is that the applicable constitutional and statutory provisions announcing the interpretation test have always been treated as merely permissive, allowing each registrar to use it or not, as he chose, and that the test was, in fact, generally waived for three decades throughout the State and never administered in some communities. It was shown that, when used, the test procedures varied widely, from year to year, from place to place and from applicant to applicant. The overwhelming proof shows, however, that, notwithstanding the disparities, a common thread of racial discrimination runs through the practices. Conformably to the original plan, the inherent flexibility of the constitutional interpretation test, combined with the uncanalized discretion vested in local registrars, has invited a "discriminating" application, characterized by selective enforcement and, where necessary, the use of a double standard—all geared to the effective disfranchisement of a substantial portion of the adult Negro population.

Such is the scheme revealed by the present record. The ingredients are a vague subjective test for which the law neither defines the substantive standard nor fixes the applicable procedures—in short, a broad

[97] As we have noted in the Statement (*supra*, p. 28), no such instructions bearing on the interpretation test were issued.

license for discrimination—and a selective and uneven, but consistently discriminatory, course of administration. The result is an inseparable whole—part textual law, part layers of gloss accreted by long practice—bonded together by the common understanding of lawmakers and administrators for four decades. In the circumstances, it was appropriate to enjoin not only the deviations of individual registrars, but also to invalidate the underlying laws which, in the prevailing climate of public and private pressures, almost unavoidably breed those practices—and thus to extirpate root and branch the long-flourishing system of discrimination.

The governing principles have been fully discussed in the brief for the United States in the companion case of *United States* v. *Mississippi*, No. 73 (pp. 81–89), and need not be repeated here. It is enough to recall the familiar doctrine that no law may stand which invests an administrator with uncanalized discretion to grant or deny fundamental rights,[98] and also the obvious corollary that such laws are all the more vulnerable when they are shown in actual operation to have worked gross discrimination.[99] It re-

[98] To the cases cited in our *Mississippi* brief in support of this proposition, the following decisions of this Court may appropriately be added: *Joseph Burstyn, Inc.* v. *Wilson*, 343 U.S. 495; *Gelling* v. *Texas*, 343 U.S. 960; *Superior Films, Inc.* v. *Department of Education*, 346 U.S. 587; *Kunz* v. *New York*, 340 U.S. 290; *Aptheker* v. *Secretary of State*, 378 U.S. 500, 514.

[99] For the proposition that "in passing upon constitutional questions the court has regard to substance and not to mere matters of form, * * * in accordance with familiar principles, the statute must be tested by its operation and effect," we should add the decisions in *Near* v. *Minnesota*, 283 U.S. 697,

mains only to show in what respects the Louisian voting provisions, like those of Mississippi, are potential instruments of discrimination and how they have, in fact, been used to that end.

A. DISCRIMINATORY POTENTIAL OF THE LOUISIANA CONSTITUTIONAL INTERPRETATION TEST

It is impossible to approach the present constitutional interpretation test without noticing that it

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708, and *Griffin* v. *Illinois*, 351 U.S. 12, 17, n. 11. Also relevant is the ruling in *Watkins* v. *United States*, 354 U.S. 178, 202–203, where vagueness was imported into the language of an authorizing resolution of the House Un-American Activities Committee by a fifteen-year chain of events in the committee's history. This Court combined "the language of the resolution with the construction it [had] been given." *Id.* at 203.

The following statements by the Court or individual Justices should be noted in connection with *Yick Wo* v. *Hopkins*, 118 U.S. 356:

Mr. Justice Holmes, dissenting, in *Bailey* v. *Alabama*, 219 U.S. 219, 246:

> "Neither public document nor evidence discloses a law *which by its administration is made something different from what it appears on its face* * * * *Yick Wo* v. *Hopkins*, 118 U.S. 356 does not apply" (emphasis added).

Mr. Justice Douglas, dissenting, in *Snowden* v. *Hughes*, 321 U.S. 1, 18–19:

> "If the law is 'applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances' (*Yick Wo* v. *Hopkins*, 118 U.S. 356, 373–374), *it is the same as if the invidious discrimination were incorporated in the law itself*" (emphasis added).

Mr. Justice Black, for the Court, in *Kotch* v. *Pilot Commissioners*, 330 U.S. 552, 557:

> "* * * it made no difference that under the law as written Yick Wo would have enjoyed the same protection as all others. Its unequal application to Yick Wo was enough to condemn *it*. But Yick Wo's case, as other cases

copies similar provisions adopted for avowedly discriminatory purposes in Mississippi,[100] once rejected by Louisiana as an effective, but less than forthright, means of barring Negroes from the franchise (see Statement, *supra*, p. 13), and that it was later mirrored in the racially motivated Boswell Amendment of Alabama.[101] Nor can we properly ignore the indications that Louisiana resorted to the "understanding clause" as a substitute for the patently discriminatory "grandfather clause" when this Court outlawed the latter (see Statement, *supra*, pp. 16–18). Those are strong reasons for doubting the legitimacy of the objectives which the test is meant to further. But we do

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have demonstrated, was tested by the language of the law there considered and the administration there shown" (emphasis added).

Mr. Justice Rutledge, dissenting, in the same case, 330 U.S. at 566–567:

"The case therefore falls squarely within the ruling in *Yick Wo* v. *Hopkins*, 118 U.S. 356 [footnote omitted], * * * in the fact that unconstitutional administration of a statute otherwise valid on its face incurs the same condemnation *as if the statute had incorporated the discrimination in terms*" (emphasis added).

See, also, *Austin* v. *Tennessee*, 179 U.S. 343, 349–350; *Atchison, Topeka and Santa Fe Railroad Co.* v. *Matthews*, 174 U.S. 96, 105.

[100] See the Brief for the United States in *United States* v. *Mississippi*, No. 73, this Term, pp. 10–15. Also noteworthy is the South Carolina precedent. In 1895 that State adopted a provision granting a permanent voting license to illiterates who, in the ensuing three years, could "understand and explain" any section of the State Constitution, but requiring all subsequent registrants to meet a literacy or property qualification. S.C. Const. 1895, Art. II, § 4(c)(d). Presumably the purpose was to permit white illiterates to qualify for life.

[101] See *Davis* v. *Schnell*, 81 F. Supp. 872, 878–881 (S.D. Ala.), affirmed, 336 U.S. 933.

not rest our case on impermissible purpose. The challenged provisions, on their face and as applied, are vulnerable on other counts.

1. Even if nothing were known of its parentage, one might ask whether the Louisiana constitutional interpretation test can be said to have any reasonable relation to voting qualification. To be sure, the States enjoy a wide latitude in determining the conditions upon which the franchise shall be exercised. See *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 50–53. Yet, there are limits. Plainly, no State can confine the right to vote for State-wide officers to residents of the countryside. Cf. *Gray* v. *Sanders*, 372 U.S. 368. Likewise, it would seem clear that there can be no capricious distinction made on the basis of physical traits or other characteristics wholly unconnected with the ability to participate meaningfully in the political process—regardless of whether the excluded class is large or small. Nor do we suppose that, today, the franchise can be restricted to persons over 60, to lawyers, to farmers, to third-generation residents of the State, or to any other peculiar minority. Here, as elsewhere, the Constitution requires a rational nexus between the rule adopted and a legitimate objective, and, when this most fundamental right is involved—whatever "the conception * * * of a bygone day"—it is surely axiomatic in our present democracy that no classification is reasonable which makes arbitrary distinctions with respect to the franchise. Cf. *Gray* v. *Sanders*, *supra*, 372 U.S. at

376–377, n. 8, 380; *Wesberry* v. *Sanders*, 376 U.S. 1, 7, 18.[102]

At first blush, the Louisiana "understanding" clause may appear to announce a mere literacy test, confined (to avoid undue vagueness) to two appropriately political basic texts, the federal and State Constitutions. That, however, would be a false appraisal. Louisiana does indeed have literacy tests: one is the application form for registration which the prospective voter must complete unaided; the other is embodied in a requirement that the applicant read, and write from dictation, a portion of the Preamble to the Constitution of the United States. See La. Const., Art. VIII, § 1(c), as amended (Appendix B., *infra*, pp. 87–90). The provision in suit is of a very different character. It is in no sense a test of literacy. On the contrary, as we have already noted (Statement, *supra*, pp. 18–20), the clause of the State Constitution which today announces the interpretation test was, for four decades, expressly applicable to those who were "not

[102] In providing that Representatives shall be "chosen . . . by the People," and defining that mass as including all those who "have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." (Art. I, § 2), the Constitution necessarily assumes that some State elections are determined by "popular vote." Madison's boast that federal Representatives would be chosen by "the great body of the people of the United States" (*The Federalist*, No. 57, quoted in *Wesberry*, *supra*, 376 U.S. at 18), suggests that most "people" (presumably then understood as free white adult males) would participate in the election of at least one house of the State legislature. But, however that may be, as *Gray* v. *Sanders* makes clear, the enactment of the Fourteenth, Fifteenth, Seventeenth and Nineteenth Amendments has expanded the constitutional view of popular government.

able to read or write," and, since 1960, operates only with respect to applicants who have already demonstrated their literacy.[103] It remains to consider whether the requirement in question may be viewed as a test of basic civics (assuming every voter may be required to know something of the powers and responsibilities of those he elects) or a simple test of verbal comprehension (assuming the voter should be able to understand the views of the several candidates and of those who comment on them).

Doubtless, in the best of all possible worlds, every voter would be able to understand every part of the organic law which established and defined his government. But in that Utopia, we may assume, the laws would be akin to those of Brobdingnag:

> No law of that country must exceed in words the number of letters in their alphabet, which consists only of twenty-two. But indeed few of them extend even to that length. They are expressed in the most plain and simple terms, wherein those people are not mercurial enough to discover above one interpretation; and to write a comment upon any law is a capital crime.[104]

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[103] So much is suggested by the inclusion of the constitutional interpretation test in subsection (d) of the first section of Article VIII of the State Constitution (captioned "Character and understanding"), after the literacy tests already noted which are embodied in subsection (c) (captioned "Character and literacy"). See Appendix B, *infra*, pp. 87–90. That reading is confirmed in the instructions of the State Board of Registration (e.g., R. 803) and the actual practice of registrars.

[104] Swift, *Gulliver's Travels* (Universal Library ed.), p. 132.

That is not the world faced by the Louisiana registrant. Even the Constitution of the United States—by far the easier of the two examination texts—is not without its difficulties for the uninitiated. Putting to one side such elusive concepts as "due process" in the Fifth and Fourteenth Amendments, "unreasonable searches" in the Fourth and "taking" in the Just Compensation Clause of the Fifth, which have been subject to varying interpretations here, and archaisms like "letters of marque and reprisal" (Art. I, § 8, cl. 11; § 10, cl. 1), "capitation" (Art. I, § 9, cl. 4), "bill of attainder" (Art. I, § 9, cl. 3; § 10, cl. 1) and "presentment" (Amend. V), which are obscure to the layman, there are provisions of the federal constitution which do not yield their meaning on first reading. We need only cite the clauses defining the scope and distribution of the judicial power (Art. III, § 2, cls. 1 and 2), the provisions relating to the electoral college (Art. II, § 1, cl. 3; Amend. XII), and the two "privileges and immunities" clauses (Art. IV, § 2, cl. 1; Amend. XIV, § 1). Yet, those difficulties are as nothing compared with the obstacles which the Louisiana Constitution presents. Some notion of the detailed complexity of that document is revealed by its length, more than 300 pages in the official print, without commentary or annotations. It is no exaggeration to say that most of the provisions of Articles X ("Revenue and Taxation"), XIV ("Parochial and Municipal Affairs"), XVI ("Levees"), and XVIII ("Pensions")—which together occupy some hundred printed pages—are utterly bewildering to all but the tax specialist, the financial expert or the lawyer.

There are also disarmingly short, but cryptic, provisions. Thus, Section 18 of Article XIX reads in whole: "The exercise of the police power of the State shall never be abridged." And, without further explanation, Section 8 of Article V provides: "The Lieutenant Governor shall be ex-officio President of the Senate, but shall have a casting vote only therein."

The plain fact is that an ability to comprehend all the provisions of the federal and State Constitutions can be expected of no man not specially trained in the art. It is doubtful whether most elected State officers are equal to the task—nor need they be, most of them having only a limited sphere of action, and, for that, the benefit of legal counsel. Indeed, several registrars of voters candidly confessed that they did not understand some sections of the State Constitution (R. 405, 468, 517, 596). Certainly, no such ability is necessary to know what the candidates for political office are saying: none would be so rash as to appeal to the electorate in the detailed terminology of the Louisiana Constitution. The suggestion that the requirement in suit is a test of "native intelligence," which "book learning" cannot affect (R. 650–651, 795), is patently false. The short of it is that, if taken seriously, the constitutional interpretation test would restrict the franchise in Louisiana to the legal fraternity, and probably not all of that small class. Plainly, no such intent can be ascribed to the drafters of the Louisiana Constitution. As one commentator has put it, "if any test of understanding were applied at all to any substantial number of citizens of status, the registrars would be hanged to the nearest lamp

post and no grand jury could be found that would return a true bill." Key, *Southern Politics* (1949), p. 577.

Because it imposes an impossible standard, so obviously inappropriate as a reasonable qualification for voting, the test is inherently suspect. A closer look at the mechanics of its administration will show how it invites discrimination.

2. The constitutional interpretation test is inherently vague. As Governor Foster of Louisiana recognized in 1898 when his State rejected the example of Mississippi and South Carolina, such provisions are not "certain and fixed"; they leave "the admission of the applicant to the exercise of the electoral franchise largely to the arbitrary discretion of the officers administering the law." [105] The reasons are many.

*First*, the standard itself is ill-defined. What is an ability to "understand" and "interpret" a constitutional section? Those terms are themselves susceptible of widely differing interpretations. Nor is the measure of comprehension expected made clearer by specifying that a "reasonable" interpretation is required. The vagaries of that word are obvious.[106] Cf. *Cline* v. *Frink Dairy Co.*, 274 U.S. 445; *United States* v. *Cohen Grocery Co.*, 255 U.S. 81.

*Second*, the several examination texts vary greatly in length and difficulty. The requirement is that the

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[105] Louisiana Senate Journal, 1898, p. 33. See Statement, *supra*, p. 15.

[106] As we have already noted, the vague language of the Louisiana Constitution is not elucidated by the implementing legislation, which merely tracts the constitutional text. See *supra*, pp. 55–56.

registrant be able to interpret "any section" of the federal or State Constitutions. Practical considerations of course dictate that, as to each applicant, one or a very limited number of provisions be used in testing. There are 443 separate sections in the Louisiana Constitution and 56 in the Constitution of the United States. We have already noticed that each contains very complex or obscure provisions; but there are also short and simple sections in both instruments. Even if the test section is chosen "at random" (as is sometimes claimed, see, *e.g.*, R. 517), a very uneven treatment of voters inevitably results. If, on the other hand, the registrar selects the constitutional section, the opportunities for discrimination are enormous. The potentialities are well stated by a delegate to the Louisiana Constitutional Convention of 1898:

> This "understanding clause" fixes no standard of qualification for the franchise. It is left to the discretion of the registration officer to select any one of the numerous articles of the Constitution as the test of the voter's understanding; and there are, therefore, as many different tests as there are articles in the Constitution. This arbitrary power, lodged with the registration officer, practically places his decision beyond the pale of judicial review; and he can enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance. * * *[107]

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[107] Kernan, *The Constitutional Convention of 1898 and its Work*, Proceedings of the Louisiana Bar Association for 1899, pp. 54, 59–60.

*Third,* inherently vague and varied as it is, nothing is done to standardize the procedure for administering the test. On the contrary, registrars are given no instruction by the Louisiana Constitution or statutes (or even by the central State Board of Registration);[108] each of them is left to devise his own practice, and to vary it or depart from it as the occasion may counsel him. Indeed, as we have already noted, while the law would seem to be mandatory, the provisions embodying the constitutional interpretation test have, in practice, always been treated as merely permissive, to be invoked by registrars, or not, as they choose.[109] So, also, the administrative practice has always ignored the apparent distinction in the law between giving the applicant a written text to read (under former subsection (c) of Section 1 of Article VIII of the Constitution, once applicable to literate applicants and now repealed) and reading him a section (under subsection (d), once applicable to illiter-

[108] See statement, *supra*, p. 28.

[109] In some instances, registrars have justified their failure to actually test an applicant on the ground that the relevant provisions of law only require that a voter "be able" to understand and interpret a constitutional section; hence, if the official personally knew the registrant and his obvious ability to meet the requirement, a formal examination was unnecessary (*e.g.*, R. 350, 511). The vice of that practice under a rule of white registrars is obvious. Compare the "voucher" system (requiring an applicant to be identified by two registered voters) once used in Madison Parish. See *United States* v. *Ward*, 222 F. Supp. 617 (W.D. La.). Compare the grand jury selection procedure once followed in New Orleans, noted in *Eubanks* v. *Louisiana*, 356 U.S. 584, 586, and the "alumni recommendation" rule practiced at the University of Mississippi, annulled in *Meredith* v. *Fair*, 298 F. 2d 696, 701–702; *id.*, 305 F. 2d 343, 352–353.

ates, and now generally applicable); registrars have in fact done as they wished on that score—and without reproof. But, in any event, the registrar is otherwise wholly unconfined as to procedure.

Thus, so far as the law is concerned, each registrar may determine what test section to use, by himself opening, or allowing the applicant to open, a volume containing either or both constitutions "at random"; or he may use "test cards," selecting the card for each registrant, or leaving it to chance; or he may, without further ado, unilaterally determine the test section for each applicant; or, finally, he may allow the prospective voter to pick his own text. The registrar is free to use the same section on every applicant, or on every member of a given class; or he may vary the texts with each registrant. Nor is the registrar limited to a single test section: he may examine any applicant on any number of constitutional provisions. So, also, the law leaves it to each registrar whether to require a written or an oral interpretation. And, in all this, the registrar is free to ignore the sharp degrees of difficulty between one text and another, as well as the greater or lesser burden imposed by one procedure as compared to another.

*Fourth,* and perhaps most important, the governing provisions vest full discretion in the registrar to "grade" the interpretation test. Under a system in which the only standards are vague and subjective, which eschews mandatory or uniform procedure,

which permits—indeed suggests [110]—a wholly oral administration of the test, and requires no written record to be made or kept, the power conferred is unconfined. As one Louisianian observed at the turn of the century, in the circumstances the prerogative of judging "practically places [the registrar's] decision beyond the pale of judicial review, [allowing him to] enfranchise or disfranchise voters at his own sweet will and pleasure without let or hindrance." [111]

3. We have outlined the opportunities for discrimination which the Louisiana constitutional interpretation test offers on the face of the provisions which establish it as a qualification for voters. Perhaps, "[i]t is enough that a vague and broad statute lends itself to selective enforcement against unpopular causes." *NAACP* v. *Button*, 371 U.S. 415, 435. But it is not inappropriate to make an appraisal in the particular context within which the system operates. The realities confirm that the image of registrars using the test as a "device [for] racial discrimination" (*Lassiter* v. *Northampton County Board of Elections, supra*, 360 U.S. at 53) or "a cloak to discriminate against one class or group" (*Gray* v. *Sanders, supra*, 372 U.S. at 379) is "neither speculative nor remote." *Bates* v.

[110] As already noted, the present constitutional provision literally requires the applicant to "*give*" (not "write") an interpretation of a section "when *read to him* by the registrar." La. Const., Art VIII, §1(d). Originally, this language plainly contemplated a wholly oral test, since it was expressly applicable to those who could not read or write. Presumably, the words carry the same implication today, although they are now part of a provision applicable to literates.

[111] See note 107, *supra*.

*Little Rock*, 361 U.S. 516, 524. Before noticing the actual practice, we pause to consider the racial climate of Louisiana, unavoidably a factor in the administration of the interpretation test. The "pressures" which a "political dominant white community" can exert on local officials cannot be ignored. *NAACP* v. *Alabama*, 357 U.S. 449, 463; *Bates* v. *Little Rock*, *supra*, 361 U.S. at 524; *Louisiana* v. *NAACP*, 366 U.S. 293, 296; *NAACP* v. *Button*, *supra*, 371 U.S. at 435–436; *Gibson* v. *Florida*, 372 U.S. 539, 548; at n. 3; *Anderson* v. *Martin*, 375 U.S. 399, 403; cf. *Shelton* v. *Tucker*, 364 U.S. 479, 487.

We need not elaborate the general pattern of racial discrimination prevailing in Louisiana since the constitutional interpretation test came into being. Those practices are sufficiently revealed in cases which have reached this Court in the last forty years. They involve discrimination against the Negro in jury selection (*Pierre* v. *Louisiana*, 306 U.S. 354; *Eubanks* v. *Louisiana*, 356 U.S. 584; *Poret* v. *Sigler*, 361 U.S. 375), housing (*Harmon* v. *Tyler*, 273 U.S. 668), education (*Board of Supervisors* v. *Wilson*, 340 U.S. 909; *Bush* v. *Orleans Parish School Board*, 365 U.S. 569, 366 U.S. 212, 367 U.S. 907, 908, 368 U.S. 11; *St. Helena Parish School Board* v. *Hall*, 368 U.S. 515), transportation facilities (*Morrison* v. *Davis*, 252 F. 2d 102 (C.A. 5), certiorari denied, 356 U.S. 968; *Taylor* v. *Louisiana*, 370 U.S. 154), entertainment (*State Athletic Commission* v. *Dorsey*, 359 U.S. 533), recreation (*New Orleans City Park Improvement Association* v. *Detiege*, 358 U.S. 54; *City of New Orleans* v. *Barthe*, 376 U.S. 189), public restaurants (*Garner* v. *Louisiana*,

368 U.S. 157; *Lombard* v. *Louisiana*, 373 U.S. 267), and other activities (*e.g.*, *Louisiana* v. *NAACP*, 366 U.S. 293).[112] Not surprisingly, the same attitudes are reflected in the several phases of the electoral process. *United States* v. *Thomas*, 362 U.S. 58; *Anderson* v. *Martin*, 375 U.S. 399. See, also, *Hannah* v. *Larche*, 363 U.S. 420.

In this atmosphere, it would be wholly unreal to expect native white registrars[113] to remain altogether color-blind. Whether consciously or unconsciously, they obviously have been affected by the "tradition" which influences "the general thinking of the community." Cf. *Eubanks* v. *Louisiana*, *supra*, 356 U.S. at 588. Encouraged by a broad license and a standard so vague that discrimination could pass undetected, it is difficult to suppose that registrars would not succumb to the invitation. Indeed, the administrators of the interpretation test might well feel themselves "entrusted" with the mission of preserving "white supremacy"; in 1898 opponents thought the adoption of an interpretation clause was tantamount to "sending

[112] For a more complete description of Louisiana's racially discriminatory attitudes, see the concurring opinion of Mr. Justice Douglas in *Garner* v. *Louisiana*, *supra*, 368 U.S. at 179–181, and pp. 65–71 of the Brief for the United States in *Lombard* v. *Louisiana*, *supra*, No. 58, October Term, 1962.

[113] All the Louisiana registrars were white when this suit was tried below (R. 622) and it is a fair inference that the same situation has prevailed at least since 1898.

word to the registrars" to bar Negroes from the franchise (R. 114).[114]

We note additionally that registrars were made removable "at will" by the central State Board. See La. Const., Art. VIII, § 18. Thus, beholden to the local parish officials for their appointment (and reappointment) and serving at the pleasure of the highest State officers, they can be made keenly aware of public opinion at all levels.[115] Nor have such pressures been lacking. The Louisiana registrars have not been left entirely to their own instincts. As the Statement details (*supra*, pp. 21–28), in recent years, encouragement, suggestions, and even threats, from official State committees and other groups, have counseled registrars to make effective use of the discriminatory instrument placed in their hands.

B. DISCRIMINATORY PRACTICE UNDER THE LOUISIANA CONSTITUTIONAL INTERPRETATION TEST

We have examined the constitutional interpretation test and its potential for discrimination. It re-

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[114] See, *e.g.*, the testimony of Mrs. Jones, the registrar of voters for Lincoln Parish between 1940 and 1961 (R. 510):

> Well, when the people of Lincoln Parish gave me this position they—I accepted it and was put under bond. They really thought I could handle it, or they wouldn't have let me have been the registrar. So I have tried to do exactly what the people were expecting me to do, and that is follow that law. So that's the way I've done. I haven't ever been reprimanded or nothing. How did you get the idea I had?

The ambiguous statement that she felt obliged "to follow the law" is illumined by Mrs. Jones' later testimony that she ignored the interpretation for years because "it just wasn't necessary" until "[t]hey had the colored lined up there" (R. 511).

[115] See note 92, *supra*.

mains only to recapitulate the results, already fully reported in the Statement, *supra*, pp. 27–43.

The history of the practical administration of the interpretation test fully confirms the supposition that it was never meant to be actually used, except when and where necessary to keep Negro registration within "tolerable limits," but that, if applied, it would work effectively to that end—and without leaving too obvious traces. Thus it is that the test lay dormant until the mid-1950's,[116] when the Negro, now legally eligible to participate in primaries, awakened from his enforced "apathy" and began to demand a voice in political affairs. Then, resurrected, the interpretation clause proved its versatility. As the Statement details, it was set up as a barrier to new registrations and was invoked as a ground for removing from the rolls some of those already registered who had not taken it. The test was administered orally and in writing and every conceivable procedure was used in selecting texts for the examination. Help was sometimes given and sometimes withheld. And grading standards varied widely.

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[116] In *Trudeau* v. *Barnes*, 65 F. 2d 563 (C.A. 5), certiorari denied, 290 U.S. 659—decided in 1933—a Negro brought an action for damages against the registrar of voters for one of the four largest parishes (Orleans), alleging that he had been refused registration "in obedience to" Article 8, § 1 of the 1921 Constitution, which then required that an applicant be able to read and give a reasonable interpretation of any clause in the Constitution of Louisiana or of the United States. Every indication is, however, that the interpretation test was not generally used in New Orleans or elsewhere at that time. Clearly, the test has not been administered in Orleans Parish during the last decade.

While all the disparities cannot be laid at the door of racial discrimination, and doubtless slighter, or subtler, differences necessarily passed undetected, there is ample evidence—in most instances supported by the specific findings of district courts—that the elastic standards of the constitutional interpretation test were widely used to defeat Negro registration. Specifically, as the Statement details (*supra,* pp. 31–42), there has been discrimination in the selection of sections (*e.g., United States* v. *Fox,* 211 F. Supp. 25, 33 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5)); the rejection of highly educated Negroes, often for frivolous reasons, and the acceptance of illiterate whites (*e.g., United States* v. *Clement,* 231 F. Supp. 913, 915 (W.D. La.)); the assistance on the test given to whites but withheld from Negroes (*United States* v. *Fox, supra*); the employment of the test, in most of the parishes where it was used, to keep off the voter registration rolls Negroes who had been discriminatorily purged pursuant to the exhortations of Rainach and Shaw, and, in parishes such as Bienville, the adoption, immediately after the purge, of permanent registration to seal the unpurged whites on the rolls (*United States* v. *Association of Citizens Councils of Louisiana,* 196 F. Supp. 908, 910 (W.D. La.)); indeed, even the administration of the test to Negroes but not to whites, *United States* v. *Clement, supra; United States* v. *Wilder,* 222 F. Supp. 749, 752 (W.D. La.).[117] Nor can there be any doubt of the inhibiting

[117] See, also, *Report of the United States Commission on Civil Rights* (1961), Vol. 1, Chapter 3 ("The Louisiana Story"), pp. 58–66, 135–137; *The 50 States Report* (submitted to the Commission on Civil Rights by the State Advisory Commit-

effect of these discriminatory practices on those who would otherwise have tried to register. See the opinion below, R. 135, 139.

The results are eloquent testimony. One way and another, State-wide Negro registration has been "stabilized" (to borrow the term of an official report)[118] at less than one-third of the presumptively eligible Negro adults—as compared to a 77% rate of registration for whites. See Appendix C. (*infra*, p. 91). Of course, the discriminatory operation of the interpretation test is not alone responsible. But, from 1956 (when the Negro electorate for the first and only time reached over 15% of the total registration and was viewed as alarming)[119] until mid-1962 (when the test was tentatively abandoned, after this suit was filed), it is clear that the selective enforcement of the understanding clause was a major factor in reducing and containing Negro registration. One need only notice the dramatic drop—to less than half the original figure and less than one-tenth of those potentially eligible—in the number of Negroes on the voting rolls in the 21 parishes where the interpretation test was used during that period. See Appendix D. (*infra*, p. 93).

In sum, the interpretation test in practice worked precisely as it was always understood it would. To be sure, some registrars took slight liberties with the

tees) (1961), pp. 216, 220; Hearings Before the United States Commission on Civil Rights, New Orleans, La., 1960–1961.

[118] See the December 14, 1960, Report of the Sub-Committee on Registration of the State Sovereignty Commission, R. 805–815, at 809, 811.

[119] See R. 196, 198–199, 790.

provisions of the State Constitution. But most of what was done was in conformity with the letter and the spirit of the law, under sanction from the highest State officials. It was, therefore, both necessary and proper that the State, and through it all State agents, be permanently enjoined from further implementing provisions which breed the gross discrimination reflected in this record.

## III

### THE COURT BELOW PROPERLY ENJOINED APPLICATION OF THE NEW "CITIZENSHIP TEST" IN THE PARISHES WHERE THE INTERPRETATION TEST WAS SHOWN TO HAVE BEEN USED UNTIL THERE IS A GENERAL RE-REGISTRATION OF ALL VOTERS IN THE PARISH

We have already noticed that in August, 1962—while the present suit was pending—the State Board of Registration promulgated, and required registrars throughout the State to administer, a new "multiple-choice" "citizenship" test as a prerequisite to registration (Statement, *supra,* pp. 43–45). Whatever the independent merits of the requirement (which the court below did not reach), it plainly erects a substantial obstacle to qualification for future applicants. Thus, where Negroes have been discriminatorily barred from registration, the new test—which applies only prospectively—would "freeze in" the effects of past discrimination. On this ground, the court below conditionally enjoined the use of the new test in those 21 parishes where the present record shows that the constitutional interpretation test was recently administered, until such time as there has been a general re-registration of all voters in the parish (or other

action effectively erasing the discriminatory effect of the interpretation test) (R. 82–83).

The order was plainly adapted to "the necessities of the particular case." *Hecht Co.* v. *Bowles*, 321 U.S. 321, 329; *Porter* v. *Warner Co.*, 328 U.S. 395, 398. As we elaborated in our brief in the companion *Mississippi* case (pp. 92–94), the practical solution of requiring a waiver of the law for all when some have been improperly exempted is supported by ample precedent, including, in closely analogous circumstances, this Court's decisions in *Guinn* v. *United States*, 238 U.S. 347 and *Lane* v. *Wilson*, 307 U.S. 268, 275–276.[120] It was appropriately invoked here because no workable alternative would effectively uproot the discrimination of the past.

Appellants seem to suggest (App. Br. 29, 31) that the effects of past "inequities" can be cured by a purge of whites registered in violation of State law. But, assuming the appropriateness of an order directing such action in some circumstances (see *United States* v. *Atkins*, 323 F. 2d 733 (C.A. 5)), that remedy is wholly inadequate here. In the first place, the removal of improperly registered whites would erase only one part of the discrimination; it would no noth-

[120] The "freezing" principle is expressly sanctioned by 42 U.S.C. 1971(e) (Appendix A, *infra*, pp. 82–86). That provision requires voting referees, under stated circumstances, to issue voter certificates to applicants "qualified under state law," and then defines that standard to mean "qualified according to the laws, customs, or usages of the State," barring, however, "qualifications more stringent than those used * * * in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist." See *United States* v. *Duke*, 332 F. 2d 759, 769 (C.A. 5).

ing for the Negro who was improperly rejected under the former standards and who must now re-apply under more onerous conditions. At the least, the order must provide for the mandatory registration of those who should have been accepted. But, in any event, an injunction adding and deleting names from the registration rolls does not meet the case. It wholly ignores the rights of a substantial body of potentially eligible Negroes who were inhibited from applying [121] in the face of the prevailing discriminatory practices and the experience of others. Moreover, as a practical matter—the heavy burden involved and the inevitable delays to one side—no accurate list of illegally registered and illegally rejected applicants can be drawn. The necessary records are lacking.[122] But,

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[121] This deterrent effect has been consistently noticed by the lower federal courts. See *United States* v. *Manning*, 215 F. Supp. 272, 288 (W.D. La.); *United States* v. *Clement*, 231 F. Supp. 913, 915 (W.D. La.); *United States* v. *Fox*, 211 F. Supp. 25, 32 (E.D. La.), affirmed, 334 F. 2d 449 (C.A. 5); *United States* v. *Duke*, 332 F. 2d 759, 763 (C.A. 5) (Mississippi interpretation test).

Likewise, those once rejected are discouraged from making a second attempt. The following statements are illustrative. A Negro schoolteacher in Ouachita Parish (R. 751):

> I haven't been back for the simple reason that I thought I interpreted it correctly the first time: * * * she said it wasn't to her satisfaction * * * I could interpret something all day, and they would still say that it's not to their satisfaction.

A Negro dentist in Webster Parish (R. 689):

> I haven't been in because I had trouble before, and it's embarrassing to go in, feeling that you're qualified and all, and are turned down, it's really embarrassing.

[122] Unless the constitutional interpretation test has been both given and answered in writing (a rare instance—see Statement, *supra*, p. 31), there is no way of ascertaining from the registrar's

in any event, there is an insuperable obstacle inherent in the interpretation test itself. As we have seen, the very vagueness of the constitutional provisions obscures the applicable standards and, so far as State law is concerned, it is impossible to say that anyone was "illegally" accepted or rejected. On the contrary, in the light of the administrative gloss, the discrimination practiced was fully sanctioned by Louisiana law. In the circumstances, the only realistic decree is one enjoining the interpretation test, as well as the imposition of any new requirement, unless everyone is required to meet it.

It may be argued that the injunction against implementing the new "citizenship" test is too narrow (because it is restricted to 21 parishes, whereas discrimination has not been confined to those areas), or too broad (because it affects parishes where the present record reveals the constitutional interpretation test was used, but does not affirmatively show that it was discriminatorily applied). The answer to the first objection is, of course, that the only subject of this suit is the constitutional interpretation test and the

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records alone whether an applicant was improperly qualified or improperly rejected. In no event, is it possible to discern whether "illegal" help was given. Moreover, in some of the 21 parishes affected, the registrar's practice was to administer the interpretation test first and make no record if the applicant failed and was rejected on that ground. Accordingly, no list of rejected applicants for those parishes is readily available and claims of rejection might well be contested. See, *e.g.*, R. 356, 362–363, 366–367 (Rapides); 442, 448 (Brinville). Finally, whatever the records indicate, the "purge" of a registered voter presumably requires that he be joined in the action and offered an opportunity to defend.

voting discrimination which *it* engendered; in other proceedings, it may well be appropriate to extend the injunction to avoid "freezing in" the effects of *other* discriminatory practices. The second objection must yield to the finding—fully supported by the statistics [125]—that the interpretation test, wherever used, inevitably inhibited Negro registration.

CONCLUSION

For the foregoing reasons, the judgment below should be affirmed.

Respectfully submitted.

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DECEMBER 1964.

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[125] See Appendix D, p. 93

# APPENDIX A

## Constitutional and Statutory Provisions Involved

Constitution of the United States:

ARTICLE VI

> [Clause 2.] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
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> * * * * *

AMENDMENT XV

> Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 1971 of Title 42 of the United States Code:

> (a) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.
>
> * * * * *

(c) [Supp. V] Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person.

Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) [Supp. V] In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area

shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 16 of Title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such appli-

cant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the

event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in this subsection, the word "vote" includes all action necessary to make a vote

effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) of this section in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

* * * * *

## APPENDIX B

**Relevant text of Section 1 of Article VIII of the Constitution of Louisiana, as originally adopted in 1921 and as amended in November, 1960.**

[Portions in Roman script represent the original text; additions made in 1960 are shown in *italics*; deletions are indicated by ~~barred words~~. The provision directly challenged in this proceeding (part of the original text but now of broader applicability) is that part of subsection (d) (*infra*, p. 90) printed in **boldface**].

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### ARTICLE VIII

#### SUFFRAGE AND ELECTIONS

§ 1. RIGHT TO VOTE; QUALIFICATIONS OF ELECTORS; REGISTRATION.

SECTION 1. Right to vote. After January 1, 1922, the right to vote in Louisiana shall not exist except under the provisions of this Constitution.

CITIZENSHIP AND AGE. Every citizen of this State and of the United States, native born or naturalized, not less than twenty-one years of age, and possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election in the State by the people:

* * * * *

(c) CHARACTER AND LITERACY. He shall be of good character and shall understand the duties and obligations of citizenship under a republican form of government. *One who has committed any of the following acts shall not be considered of good character:*

*(1) Has been convicted of a felony and has not received a pardon and full restoration of franchise.*

*(2) Has been convicted and sentenced to a term of ninety (90) days or more in jail for each conviction of more than one misdemeanor, other than traffic and/or game law violations, within the five years immediately prior to the date of making application for registration as an elector.*

*(3) Has been convicted and sentenced to a term of six (6) months or more in jail for any misdemeanor, other than traffic and/or game law violations, within one year immediately prior to the date of making application for registration as an elector.*

*(4) Who has lived with another in "common law" marriage within five years from the date of making application to become an elector, the common law union to be considered in accordance with the definition thereof prescribed by the criminal laws of this state.*

*(5) Has given birth to an illegitimate child within the five years immediately prior to the date of making application for registration as an elector, provided that the provisions in this paragraph shall not apply to mothers of illegitimate children conceived as a consequence of rape or forced carnal knowledge.*

*(6) Has been proven to be or who has acknowledged himself to be the father of an illegitimate child within the five years immediately prior to the date of making application for registration as an elector.*

*(7) The above enumerated acts denoting bad character shall not be deemed exclusive hereunder but said bad character may be established by any competent evidence:*

He shall be able to read and write *in the English language, or his mother tongue,* and shall demonstrate his ability to do so when he applies for registration *by the reading and the writing from dictation given by the registrar, or an interpreter duly sworn, any portion of the preamble to the Constitution of the United States of America,* and by making, under oath administered by the registration officer or his deputy, written application for registration,

in the English language, or his mother tongue, which application shall contain the essential facts necessary to show that he is entitled to register and vote, and shall be entirely written, dated and signed by him, except that he may date, fill out, and sign the blank application for registration hereinafter provided for, and, in either case, in the presence of the registration officer or his deputy, without assistance or [~~suggestion~~] *supervision* from any person or any memorandum whatever, other than the form of application hereinafter set forth; provided, however, that, if the applicant be unable to write his application in the English language, he shall have the right, if he so demands, to write the same in his mother tongue from the dictation of an interpreter; and, if the applicant is unable to write his application by reason of physical disability, the same shall be written at his dictation by the registration officer or his deputy, upon his oath of such disability.

Until and unless otherwise provided by law, the application for registration above provided for, shall be a copy of the following form, with the proper names, dates and numbers substituted for the blanks appearing therein, to-wit:

I am a citizen of the State of Louisiana. My name is Mr. ....., Mrs. ....., Miss ....., I was born in the State (or country) of ....., Parish (or county) of ....., on the ..... day of ....., in the year ..... I am now ..... years, ..... months and ..... days of age. I have resided in this State since ....., in this parish since ....., and in precinct No. ....., in Ward No. ....., *of this parish continuously* since ....., and I am not disfranchised by any provision of the Constitution of this State.

*The application for registration form above provided for shall be filled out by the applicant and sworn and sub-*

*scribed to before the registrar of voters or deputy registrar of voters.*

~~Said applicant shall also be able to read any clause in this Constitution, or the Constitution of the United States, and give a reasonable interpretation thereof.~~

(d) CHARACTER AND UNDERSTANDING. ~~If he is not able to read or write, then he shall be entitled to register if~~ [*H*]e shall be a person of good character and reputation, attached to the principles of the Constitution of the United States and of the State of Louisiana, and shall **be able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar,** and he must be well disposed to the good order and happiness of the State of Louisiana and of the United States and must understand the duties and obligations of citizenship under a republican form of government. *He shall demonstrate that he is well disposed to the good order and happiness of the State of Louisiana by executing an affidavit affirming that he will faithfully and fully abide by all of the laws of the State of Louisiana.*

* * * * *

*(f) Notwithstanding any provision in this section to the contrary, the inability of any person to read or write for any reason, who is registered to vote as of November 8, 1960, shall not be grounds for removal of such person from the registration rolls, by the registrar, by challenge of other persons, or by any action of court. Added Acts 1960, No. 613, adopted Nov. 8, 1960.*

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# NOTES

[a] All figures in these columns are taken from U.S. Bureau of the Census, *Census of Population:* 1950, Vol. I, Part 20, Table 14, p. 27.

[b] The basic figures are derived from the respective decennial census reports. See U.S. Census Office, *Compendium of the Eleventh Census:* 1890, Part I, Table 35, p. 701 (H. Misc. Doc. No. 340, Part 6, 52d Cong., 1st Sess.); *id.*, *Twelfth Census:* 1900, Vol. II, Table XI., p. lxxvi, Table 34, p. 171; U.S. Bureau of the Census, *Thirteenth Census:* 1910, Vol. II, Louisiana Table 4, p. 772, Louisiana Table I, p. 770; *id.*, *Fifteenth Census:* 1930, Vol. III, Part I, Louisiana Table 4, p. 960 (for both 1920 and 1930); *id.*, *Sixteenth Census of the United States:* 1940, Population Vol. II, Part I, Table 32, p. 72; *id.*, *Census of Population:* 1950, Vol I, Part 20, Table 14, pp. 20, 21 (for both 1940 and 1950). For 1900, 1910, and 1920, because the cited tables group together all "colored" or "non-white" adults (or male adults in 1900), a slight adjustment was made to eliminate the very small number of Orientals and Indians from the "Negro" column. Exact figures being unavailable, this was done by subtracting from the total number of adult "non-whites" one-half the total number of non-Negro "non-whites" in the State population in the given year (one-half of the male total for 1920 when women could not vote) on the assumption that approximately half the population consisted of minors. Slight inaccuracies resulting from this procedure are insignificant, since the percentage of "non-whites" other than Negroes never exceeded 0.5% of the population in Louisiana. For all years, the figures used for the adjustment are found in U.S. Bureau of the Census, *Census of Population:* 1950, Vol I, Part 20, Table 14, p. 27.

[c] All figures are taken from official Louisiana reports. Most of these are reproduced in Pl. Exh. 1 or Pl. Exh. 101. Exceptions are: the figures for 1920 and 1930 which are shown in Pl. Exh. 101, R. 322-324 (also Exhs. 121, 122), the 1932 figures which are shown on Pl. Exh. 14, and the 1934 and 1936 figures which are taken directly from the tables appended to the *Reports of the Secretary of State of Louisiana*, dated January 1, 1935, and January 1, 1937, respectively. With the exceptions hereafter noted, the figures listed for 1920 and subsequent years represent the October list of registered voters. The entries for 1920 are as of March 17 of that year, the all-time high for Negro registration (October, 1920 figures total, 1,070,695; white, 849,555; Negro, 220,840; Negro %, 14.6%; Pl. Exhs. 101, 122). The 1932 figures are as of December 31. The figures listed in the "1937" column are actually those for 1936, no others being available. Assuming the correctness of the Census figures, the list of registered voters for 1920 (listed here as "1937") is obviously inaccurate, at least with respect to Negro voters. Doubtless, the list had not been recently purged of the names of a substantial number of former registrants who had died or moved from the State. Presumably, however, the same error is reflected on the list of white voters and the percentage figure may therefore be assumed approximately accurate. Minor discrepancies will be noted in some of the totals for other years, which are copied from the official reports. Such insignificant errors do not affect the percentage figures.

[d] These percentages are arrived at by comparing the total voting age population for each race (Appendix Exhibit 2) and the registration figures for each race in the census years (from columns 21 and 22). The "registration rate" noted for 1920 must be viewed as approximate only because the registration figures for that year are obviously inflated. See note (c) supra.

# APPENDIX C

*State-wide statistics*

| Year | Total population [a] | | | | Voting age population [b] (Over 21, males only through 1920) | | | |
|---|---|---|---|---|---|---|---|---|
| | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total |
| 1890 | 1,118,588 | 888,296 | 830,192 | 89% | 298,893 | 180,748 | 118,689 | 47.9% |
| 1900 | 1,381,625 | 728,612 | 650,804 | 47.1% | 328,943 | 177,878 | 147,348 | 45.2% |
| 1910 | 1,656,388 | 941,626 | 713,894 | 43.1% | 414,819 | 240,601 | 174,211 | 42.9% |
| 1920 | 1,798,509 | 1,096,611 | 700,257 | 38.9% | 468,689 | 290,374 | 178,688 | 38.9% |
| 1921 | | | | | | | | |
| 1922 | | | | | | | | |
| 1923 | | | | | | | | |
| 1924 | | | | | | | | |
| 1925 | | | | | | | | |
| 1926 | 2,101,593 | 1,382,712 | 716,288 | 37.1% | 1,134,882 | 718,288 | 415,967 | 36.9% |
| 1927 | | | | | | | | |
| 1928 | | | | | | | | |
| 1929 | | | | | | | | |
| 1930 | | | | | | | | |
| 1931 | 2,208,889 | 1,611,729 | 868,288 | 38.9% | 1,394,987 | 888,889 | 472,882 | 34.4% |
| 1932 | | | | | | | | |
| 1933 | | | | | | | | |
| 1934 | | | | | | | | |
| 1935 | | | | | | | | |
| 1936 | 2,688,816 | 1,788,688 | 888,488 | 32.9% | 1,887,148 | 1,188,881 | 678,682 | 30.2% |
| 1937 | | | | | | | | |
| 1938 | | | | | | | | |
| 1939 | | | | | | | | |
| 1940 | | | | | | | | |
| 1941 | 2,897,688 | 2,211,718 | 1,688,297 | 31.9% | 1,888,886 | 1,288,218 | 811,888 | 28.6% |
| 1942 | | | | | | | | |

# APPENDIX C

*State-wide statistics*

| Year | Total population [a] | | | | Voting age population [b] (Over 21, males only through 1920) | | | | Registered voters [c] | | | | Registration rate [d] | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total | Total | White | Negro | Negro % of total | White | Negro |
| 1900 | 1,118,588 | 585,305 | 532,198 | 59% | 280,363 | 130,748 | 149,469 | 47.6% | 254,807 | 126,884 | 127,923 | 50.2% | 91% | 100% |
| 1900 | 1,381,625 | 728,612 | 652,804 | 47.1% | 325,943 | 177,575 | 147,348 | 45.2% | 130,757 | 125,437 | 5,320 | 4.1% | 71% | 4% |
| 1910 | 1,656,388 | 941,086 | 713,574 | 43.1% | 414,919 | 240,001 | 174,211 | 42.0% | 117,903 | 116,349 | 730 | 0.5% | 48% | 0.4% |
| 1920 | 1,798,509 | 1,086,811 | 709,257 | 39.9% | 469,969 | 290,374 | 178,623 | 38.0% | 360,765 | 357,232 | 3,533 | 1.4% | 85% | 2% |
| 1922 | | | | | | | | | 191,789 | 191,191 | 598 | 0.3% | | |
| 1924 | | | | | | | | | 323,555 | 317,126 | 955 | 0.3% | | |
| 1926 | | | | | | | | | 274,917 | 274,532 | 988 | 0.4% | | |
| 1928 | | | | | | | | | 379,270 | 376,963 | 2,054 | 0.5% | | |
| 1930 | 2,101,808 | 1,323,713 | 778,226 | 37.1% | 1,134,882 | 716,366 | 418,047 | 36.6% | 363,570 | 361,271 | 2,279 | 0.6% | 49% | 0.5% |
| 1932 | | | | | | | | | 481,997 | 480,406 | 1,591 | 0.3% | | |
| 1934 | | | | | | | | | 396,982 | 395,285 | 1,206 | 0.3% | | |
| 1936 | | | | | | | | | 643,990 | 641,609 | 1,981 | 0.3% | | |
| 1938 | | | | | | | | | 527,059 | 525,936 | 1,123 | 0.2% | | |
| 1940 | 2,263,880 | 1,511,730 | 848,328 | 35.9% | 1,376,947 | 899,960 | 473,582 | 34.4% | 702,545 | 701,659 | 886 | 0.1% | 77% | 0.2% |
| 1942 | | | | | | | | | 606,208 | 606,241 | 967 | 0.2% | | |
| 1944 | | | | | | | | | 722,715 | 721,043 | 1,672 | 0.2% | | |
| 1946 | | | | | | | | | 770,121 | 762,860 | 7,861 | 1.0% | | |
| 1948 | | | | | | | | | 924,705 | 896,417 | 28,177 | 3.0% | | |
| 1950 | 2,688,816 | 1,796,883 | 892,426 | 33.2% | 1,587,143 | 1,105,861 | 479,082 | 30.2% | 815,081 | 756,386 | 61,675 | 7.5% | 68% | 12% |
| 1952 | | | | | | | | | 1,056,720 | 948,688 | 107,844 | 10.2% | | |
| 1954 | | | | | | | | | 871,635 | 753,339 | 118,183 | 13.6% | | |
| 1956 | | | | | | | | | 1,057,908 | 896,498 | 161,410 | 15.3% | | |
| 1958 | | | | | | | | | 946,367 | 816,043 | 130,624 | 13.7% | | |
| 1960 | 3,267,682 | 2,311,715 | 1,059,207 | 31.9% | 1,808,896 | 1,288,216 | 511,539 | 28.4% | 1,182,151 | 993,118 | 189,033 | 13.9% | 77% | 31% |
| 1962 | | | | | | | | | 1,086,855 | 942,977 | 183,878 | 13.9% | | |

# NOTES

[a] U.S. Bureau of the Census, *Census of Population: 1960*, Vol. II, Part 18, Table 44, pp. 67-77.

[b] State of Louisiana, *Report of Secretary of State to his excellency Earl K. Long, Governor, from January 1, 1949 to December 31, 1950* (October 1960 figures).

[c] Pl. Exh. 1 (October 1964 figures).

[d] Pl. Exh. 1 (March 1965 figures).

[e] Pl. Exh. 1 (October 1965 figures).

[f] U.S. Bureau of the Census, *Census of Population: 1960*, Vol. I, Part 20, Table 27, pp. 74-80.

[g] Pl. Exh. 14 (December 1960 figures).

[h] It will be noted that the table indicates more registered white voters than white adults in La Salle, Red River and St. Helena Parishes. That is presumably explained by the fact that census figures are as of April, 1960, while the registration figures are for December 31, 1960. In those instances, the registration rate is here indicated as "100%."

[i] Pl. Exh. 14 (December 1962 figures).

| | 1960 | | | | | | | | 1964 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Voting Age Population a | | | Registered Voters b | | | Registration Rate | | Registered Voters a | | |
| | White | Negro | Negro % of Total | White | Negro | Negro % of total | White | Negro | White | Negro | Ne % to |
| Bienville | 6,123 | 4,478 | 42.2% | 5,015 | 85 | 1.7% | 81.9% | 1.9% | 4,221 | 482 | 10 |
| Claiborne | 7,748 | 6,277 | 44.8% | 4,885 | 17 | .34% | 63.0% | .27% | 5,610 | 15 | |
| De Soto | 6,644 | 6,859 | 50.8% | 4,694 | 0 | 0% | 70.8% | 0% | 3,827 | 373 | 8 |
| East Carroll | 3,223 | 5,330 | 62.3% | 2,186 | 0 | 0% | 67.2% | 0% | 2,074 | 0 | 0 |
| East Feliciana | 6,214 | 6,235 | 50.1% | 2,214 | 1 | .01% | 35.6% | .01% | 2,844 | 848 | 20 |
| Franklin | 9,870 | 5,070 | 33.9% | 6,986 | 0 | 0% | 70.8% | 0% | 6,331 | 445 | 6 |
| Jackson | 6,415 | 2,289 | 26.4% | 5,900 | 840 | 12.5% | 92.0% | 36.5% | 4,305 | 787 | 15 |
| La Salle | 6,615 | 813 | 10.9% | 5,780 | 0 | 0% | 87.4% | 0% | 5,543 | 544 | 8 |
| Lincoln | 9,297 | 5,242 | 36.1% | 5,952 | 349 | 5.5% | 64.0% | 6.7% | 5,301 | 947 | 15 |
| Morehouse | 9,486 | 7,907 | 45.5% | 6,173 | 538 | 8.0% | 65.2% | 6.8% | 6,433 | 743 | 10 |
| Ouachita | 31,381 | 14,582 | 31.7% | 19,791 | 2,365 | 10.7% | 63.1% | 16.2% | 23,289 | 3,183 | 12 |
| Plaquemines | 5,239 | 2,642 | 33.6% | 4,441 | 0 | 0% | 84.9% | 0% | 4,389 | 84 | 1 |
| Rapides | 37,185 | 17,618 | 32.1% | 26,966 | 3,517 | 11.5% | 72.5% | 2.0% | 23,191 | 2,626 | 10 |
| Red River | 3,889 | 2,917 | 45.0% | 3,164 | 0 | 0% | 88.7% | 0% | 2,916 | 1,844 | 26 |
| Richland | 8,482 | 5,427 | 39.1% | 5,636 | 263 | 4.5% | 66.7% | 4.7% | 5,641 | 477 | 7 |
| St. Helena | 3,440 | 2,685 | 46.1% | 2,383 | 0 | 0% | 97.7% | 0% | 1,884 | 1,089 | 36 |
| Union | 7,842 | 3,162 | 29.8% | 6,286 | 464 | 6.9% | 82.7% | 14.7% | 5,155 | 1,681 | 1 |
| Webster | 13,606 | 6,618 | 32.7% | 9,470 | 654 | 6.5% | 69.6% | 9.9% | 9,696 | 1,247 | 12 |
| West Carroll | 7,228 | 1,531 | 17.5% | 5,162 | 0 | 0% | 71.5% | 0% | 3,626 | 205 | 5 |
| West Feliciana | 2,124 | 4,076 | 67.0% | 964 | 0 | 0% | 44.7% | 0% | 1,629 | 0 | 0 |
| Winn | 7,012 | 2,499 | 26.2% | 6,108 | 281 | 3.9% | 87.1% | 10.1% | 5,881 | 731 | 11 |
| All 21 parishes | 197,269 | 113,697 | 36.5% | 160,579 | 9,994 | 6.2% | 71.6% | 8.2% | 132,296 | 16,667 | 11 |

# APPENDIX D

*Statistics for the 21 parishes using the interpretation test*

| | 1950 | | | | | | | | 1954 | | | 1956 | | | 1958 | | | 1960 | | | | | | | 1962 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Voting Age Population [a] | | | Registered Voters [b] | | | Registration Rate | | Registered Voters [c] | | | Registered Voters [d] | | | Registered Voters [e] | | | Voting Age Population [f] | | | Registered Voters [g] | | | Registration Rate [h] | | Registered Voters [i] | | |
| | White | Negro | Negro % of Total | White | Negro | Negro % of total | White | Negro | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | Negro % of total | White | Negro | White | Negro | Negro % of total |
| Bienville | 6,123 | 4,478 | 42.2% | 5,015 | 85 | 1.7% | 81.9% | 1.9% | 4,331 | 482 | 10.0% | 5,328 | 857 | 9.9% | 4,759 | 28 | 0.58% | 5,617 | 4,077 | 42.1% | 5,175 | 25 | 0.48% | 92.1% | 0.61% | 4,664 | 478 | 9.3% |
| Claiborne | 7,748 | 6,277 | 44.8% | 4,865 | 17 | .34% | 63.0% | .27% | 5,610 | 15 | .26% | 5,808 | 17 | .29% | 5,698 | 15 | .26% | 8,415 | 5,082 | 43.9% | 5,801 | 29 | .52% | 85.8% | .57% | 5,216 | 34 | .64% |
| De Soto | 6,644 | 6,809 | 51.9% | 4,684 | 0 | 0% | 70.5% | 0% | 3,827 | 373 | 8.8% | 5,640 | 762 | 11.9% | 5,526 | 486 | 8.1% | 6,543 | 6,753 | 51.5% | 5,822 | 594 | 9.3% | 89.0% | 8.8% | 5,655 | 599 | 9.6% |
| East Carroll | 3,220 | 5,280 | 62.3% | 2,186 | 0 | 0% | 67.2% | 0% | 2,074 | 0 | 0% | 3,000 | 0 | 0% | 2,028 | 0 | 0% | 2,990 | 4,183 | 58.3% | 2,845 | 0 | 0% | 95.2% | 0% | 1,261 | 5 | .39% |
| East Feliciana | 6,214 | 6,285 | 50.1% | 2,214 | 1 | .01% | 35.6% | .01% | 2,544 | 643 | 20.3% | 2,812 | 1,361 | 32.6% | 2,485 | 454 | 15.4% | 7,043 | 6,081 | 46.3% | 2,448 | 82 | 3.2% | 34.8% | 1.3% | 2,517 | 80 | 3.1% |
| Franklin | 9,870 | 5,070 | 33.9% | 6,988 | 0 | 0% | 70.8% | 0% | 6,331 | 445 | 6.5% | 8,297 | 650 | 7.26% | 5,692 | 364 | 6.01% | 8,964 | 4,433 | 33.1% | 8,360 | 390 | 4.5% | 92.2% | 8.8% | 5,050 | 155 | 3.0% |
| Jackson | 6,415 | 2,209 | 26.4% | 5,900 | 840 | 12.5% | 92.0% | 36.5% | 4,305 | 760 | 15.0% | 5,457 | 1,113 | 16.9% | 4,956 | 360 | 6.8% | 6,607 | 2,335 | 27.7% | 5,804 | 483 | 7.7% | 87.8% | 19.1% | 5,579 | 479 | 7.9% |
| La Salle | 6,615 | 813 | 10.9% | 5,780 | 0 | 0% | 87.4% | 0% | 5,543 | 544 | 8.9% | 6,861 | 742 | 9.8% | 4,901 | 157 | 2.9% | 6,799 | 849 | 11.1% | 6,823 | 220 | 3.1% | 100% | 25.9% | 5,308 | 190 | 3.5% |
| Lincoln | 9,207 | 5,242 | 36.1% | 5,902 | 349 | 5.5% | 64.0% | 6.7% | 5,301 | 947 | 15.2% | 7,029 | 1,166 | 14.2% | 4,655 | 470 | 9.2% | 9,611 | 5,723 | 37.3% | 6,928 | 860 | 11.0% | 72.1% | 15.0% | 4,825 | 720 | 13.0% |
| Morehouse | 9,466 | 7,907 | 45.5% | 6,173 | 538 | 8.0% | 65.2% | 6.8% | 6,423 | 743 | 10.3% | 9,400 | 985 | 9.09% | 4,647 | 202 | 4.2% | 10,211 | 7,208 | 41.1% | 7,480 | 301 | 3.9% | 72.8% | 4.2% | 5,890 | 251 | 4.3% |
| Ouachita | 31,381 | 14,532 | 31.7% | 19,791 | 2,365 | 10.7% | 63.1% | 16.3% | 23,289 | 3,183 | 12.0% | 24,184 | 5,782 | 19.3% | 21,979 | 776 | 3.4% | 40,185 | 16,377 | 28.9% | 34,789 | 739 | 2.7% | 61.7% | 4.8% | 25,138 | 1,001 | 3.8% |
| Plaquemines | 5,229 | 2,642 | 33.6% | 4,441 | 0 | 0% | 84.9% | 0% | 4,309 | 54 | 1.21% | 4,741 | 49 | 1.02% | 5,371 | 45 | .8% | 8,653 | 2,807 | 25.1% | 7,160 | 47 | .65% | 82.9% | 1.6% | 6,735 | 85 | 1.2% |
| Rapides | 37,185 | 17,618 | 32.1% | 26,956 | 3,517 | 11.5% | 72.5% | 2.0% | 23,191 | 2,626 | 10.2% | 26,293 | 3,160 | 10.7% | 25,294 | 2,630 | 9.4% | 44,823 | 18,141 | 28.8% | 30,262 | 3,073 | 9.2% | 67.7% | 16.9% | 30,002 | 3,010 | 9.1% |
| Red River | 3,289 | 2,217 | 45.9% | 3,166 | 0 | 0% | 96.7% | 0% | 2,916 | 1,044 | 26.4% | 3,575 | 1,512 | 29.7% | 1,958 | 15 | .76% | 3,294 | 2,181 | 39.9% | 3,429 | 27 | .78% | 100% | 1.2% | 3,061 | 31 | 1.0% |
| Richland | 6,423 | 5,427 | 39.1% | 5,636 | 263 | 4.3% | 86.7% | 4.7% | 5,641 | 477 | 7.8% | 7,196 | 740 | 9.3% | 4,273 | 179 | 3.9% | 7,601 | 4,608 | 37.7% | 6,075 | 263 | 4.1% | 79.9% | 5.7% | 4,062 | 218 | 5.1% |
| St. Helena | 2,649 | 3,686 | 46.1% | 2,253 | 0 | 0% | 97.7% | 0% | 1,884 | 1,049 | 35.8% | 2,555 | 1,694 | 39.8% | 1,702 | 1,059 | 38.4% | 2,363 | 2,982 | 46.9% | 2,478 | 1,343 | 33.4% | 100% | 88.7% | 1,715 | 209 | 10.9% |
| Union | 7,842 | 3,183 | 28.8% | 6,296 | 464 | 6.9% | 82.7% | 14.7% | 5,155 | 1,031 | 16.7% | 6,896 | 1,600 | 18.8% | 3,985 | 366 | 8.6% | 7,021 | 3,606 | 33.9% | 5,911 | 597 | 9.2% | 84.2% | 19.7% | 6,600 | 600 | 9.1% |
| Webster | 13,206 | 6,618 | 33.7% | 9,670 | 654 | 6.8% | 68.6% | 9.9% | 9,055 | 1,247 | 12.1% | 12,613 | 1,709 | 12.3% | 8,197 | 80 | .97% | 15,713 | 7,045 | 30.9% | 12,260 | 130 | 1.1% | 77.9% | 1.9% | 8,881 | 120 | 1.4% |
| West Carroll | 7,229 | 1,851 | 17.8% | 5,162 | 0 | 0% | 71.8% | 0% | 3,925 | 248 | 5.9% | 5,660 | 282 | 4.8% | 3,286 | 70 | 2.1% | 8,171 | 1,289 | 13.6% | 5,182 | 70 | 1.3% | 84.6% | 5.6% | 2,494 | 28 | 1.1% |
| West Feliciana | 2,184 | 4,676 | 67.8% | 984 | 0 | 0% | 44.7% | 0% | 1,060 | 0 | 0% | 1,272 | 0 | 0% | 981 | 0 | 0% | 2,814 | 4,553 | 61.8% | 1,328 | 0 | 0% | 46.3% | 0% | 1,698 | 0 | 0% |
| Winn | 7,812 | 3,429 | 26.2% | 6,168 | 261 | 3.9% | 87.1% | 10.1% | 5,281 | 731 | 12.0% | 6,449 | 1,430 | 18.1% | 4,872 | 746 | 13.3% | 6,780 | 2,880 | 27.6% | 6,366 | 1,682 | 14.6% | 96.2% | 42.2% | 5,917 | 994 | 13.6% |
| All 21 parishes | 207,288 | 113,627 | 38.8% | 149,978 | 9,284 | 6.2% | 71.0% | 8.2% | 132,205 | 16,647 | 12.6% | 161,689 | 26,261 | 13.6% | 127,194 | 8,804 | 6.3% | 216,288 | 111,762 | 34.1% | 162,427 | 16,288 | 5.9% | 75.1% | 9.2% | 140,488 | 9,227 | 6.2% |